

# An Act

HOUSE BILL 12-1310

BY REPRESENTATIVE(S) Gardner B., Barker, Casso, Gerou, Labuda, McCann, Pabon, Pace, Ryden, Stephens, Tyler, Vigil, Wilson, Young; also SENATOR(S) Carroll, Guzman, Aguilar, Boyd, Foster, Grantham, Heath, Hudak, Jahn, King K., King S., Neville, Newell, Nicholson, Schwartz, Steadman, Williams S.

CONCERNING CHANGES TO STATUTORY PROVISIONS RELATED TO CRIMINAL PROCEEDINGS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

**SECTION 1.** In Colorado Revised Statutes, **add** 13-25-137 as follows:

**13-25-137. Admissibility of commercial packaging.** (1) LABELS OR PACKAGES LISTING, INDICATING, OR DESCRIBING THE CONTENTS OR INGREDIENTS OF ANY COMMERCIALY PACKAGED ITEM ARE ADMISSIBLE IN EVIDENCE TO PROVE THAT THE ITEM CONTAINS THE CONTENTS OR INGREDIENTS LISTED ON THE LABEL OR PACKAGE. A LABEL OR PACKAGE LISTING THAT IDENTIFIES THE CONTENTS OR INGREDIENTS OF A CONTAINER OR PACKAGE CONSTITUTES PRIMA FACIE EVIDENCE THAT THE ITEMS IN THE CONTAINER OR PACKAGE WERE COMPOSED IN WHOLE OR IN PART OF THE

CONTENTS.

(2) PRIOR TO THE ADMISSION OF EVIDENCE PURSUANT TO THIS SECTION, THE COURT SHALL MAKE A PRELIMINARY DETERMINATION AS TO WHETHER THE ITEM CONSTITUTES A COMMERCIALY PACKAGED ITEM AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION. THIS DETERMINATION MAY INCLUDE ANY EVIDENCE THE COURT DEEMS APPROPRIATE, INCLUDING BUT NOT LIMITED TO EVIDENCE OF WHERE THE ITEM IS AVAILABLE FOR PURCHASE, WHETHER THE ITEM IS SUBJECT TO STATE OR FEDERAL REGULATION, OR ANY OTHER EVIDENCE OBSERVABLE ON THE PACKAGE THAT INDICATES OR CONSTITUTES INDICIA OF THE LABEL'S OR PACKAGE'S RELIABILITY. EXTRINSIC EVIDENCE THAT AN ITEM IS COMMERCIALY PACKAGED IS NOT A PREREQUISITE TO THE COURT'S DETERMINATION.

**SECTION 2.** In Colorado Revised Statutes, 13-54-104, **add** (1) (b) (V) as follows:

**13-54-104. Restrictions on garnishment and levy under execution or attachment.** (1) As used in this section, unless the context otherwise requires:

(b) (V) FOR THE PURPOSES OF ATTACHMENTS OF EARNINGS OR WRITS OF GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR COURT ASSESSMENTS INCLUDING FINES, FEES, COSTS, RESTITUTION, AND SURCHARGES PURSUANT TO SECTION 16-11-101.6 OR SECTION 16-18.5-105, C.R.S., "EARNINGS" ALSO MEANS THOSE ENUMERATED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH (b).

**SECTION 3.** In Colorado Revised Statutes, 13-54.5-101, **add** (2) (e) as follows:

**13-54.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(2) (e) FOR THE PURPOSES OF ATTACHMENTS OF EARNINGS OR WRITS OF GARNISHMENT THAT ARE THE RESULT OF A JUDGMENT TAKEN FOR COURT ASSESSMENTS INCLUDING FINES, FEES, COSTS, RESTITUTION, AND SURCHARGES PURSUANT TO SECTION 16-11-101.6 OR SECTION 16-18.5-105, C.R.S., "EARNINGS" ALSO MEANS THOSE ENUMERATED UNDER PARAGRAPH (a) OF THIS SUBSECTION (2).

**SECTION 4.** In Colorado Revised Statutes, 16-4-105, **amend** (3) (e) and (3) (f) as follows:

**16-4-105. Selection by judge of the amount of bail and type of bond - criteria.** (3) (e) Commencing ~~November 1, 2000~~ JULY 1, 2012, each pretrial services program established pursuant to this subsection (3) shall provide an annual report to the state judicial department no later than November 1 of each year, regardless of whether the program existed prior to May 31, 1991. The judicial department shall present an annual combined report to the house and senate judiciary committees, OR ANY SUCCESSOR COMMITTEES, of the general assembly. The report TO THE JUDICIAL DEPARTMENT shall include, but is not limited to, the following information:

(I) ~~The number of interviews conducted with defendants;~~ THE TOTAL NUMBER OF PRETRIAL ASSESSMENTS PERFORMED BY THE PROGRAM AND SUBMITTED TO THE COURT;

(II) ~~The number and nature of recommendations made~~ THE TOTAL NUMBER OF CLOSED CASES BY THE PROGRAM IN WHICH THE DEFENDANT WAS RELEASED FROM CUSTODY AND SUPERVISED BY THE PROGRAM;

(III) ~~The number of defendants under pretrial release supervision who failed to appear;~~ and THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE DEFENDANT WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PROGRAM, AND, WHILE UNDER SUPERVISION, APPEARED FOR ALL SCHEDULED COURT APPEARANCES ON THE CASE;

(IV) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE DEFENDANT WAS RELEASED FROM CUSTODY, WAS SUPERVISED BY THE PROGRAM, AND WAS NOT CHARGED WITH A NEW CRIMINAL OFFENSE THAT WAS ALLEGED TO HAVE OCCURRED WHILE UNDER SUPERVISION AND THAT CARRIED THE POSSIBILITY OF A SENTENCE TO JAIL OR IMPRISONMENT;

(V) THE TOTAL NUMBER OF CLOSED CASES IN WHICH THE DEFENDANT WAS RELEASED FROM CUSTODY AND WAS SUPERVISED BY THE PROGRAM, AND THE DEFENDANT'S BOND WAS NOT REVOKED BY THE COURT DUE TO A VIOLATION OF ANY OTHER TERMS AND CONDITIONS OF SUPERVISION; AND

~~(IV)~~ (VI) Any additional information the state judicial department may request.

~~(f) Any pretrial services program established pursuant to this subsection (3) shall not be eligible for further program funding if the program has failed to provide the reports required in paragraph (e) of this subsection (3).~~ FOR THE REPORTS REQUIRED IN PARAGRAPH (e) OF THIS SUBSECTION (3), THE PRETRIAL SERVICES PROGRAM SHALL INCLUDE INFORMATION DETAILING THE NUMBER OF PERSONS RELEASED ON A COMMERCIAL SURETY BOND IN ADDITION TO PRETRIAL SUPERVISION, THE NUMBER OF PERSONS RELEASED ON A CASH, PRIVATE SURETY, OR PROPERTY BOND IN ADDITION TO PRETRIAL SUPERVISION, AND THE NUMBER OF PERSONS RELEASED ON ANY FORM OF A PERSONAL RECOGNIZANCE BOND IN ADDITION TO PRETRIAL SUPERVISION.

**SECTION 5.** In Colorado Revised Statutes, 16-4-201, **amend** (1) (c) as follows:

**16-4-201. Bail after conviction.** (1) (c) ~~No~~ Bond shall NOT be continued in effect following a plea of guilty or of nolo contendere or following conviction unless the written consents of the sureties, if any, are filed ~~of record.~~ ~~No~~ WITH THE COURT. IN THE INITIAL BOND DOCUMENTS FILED WITH THE COURT, A SURETY SHALL INDICATE, IN WRITING AND AT THE TIME OF THE POSTING OF BOND, IF THE SURETY CONSENTS TO THE CONTINUANCE OF THE BOND THROUGH SENTENCING OF THE DEFENDANT. IF THE SURETY DOES NOT PROVIDE WRITTEN CONSENT AT THE TIME OF THE INITIAL POSTING OF BOND, THE SURETY MAY PROVIDE WRITTEN CONSENT AT THE TIME OF THE PLEA OF GUILTY OR NOLO CONTENDERE OR WITHIN A REASONABLE TIME THEREAFTER AS DETERMINED BY THE COURT. A court shall NOT require the posting of any form of bond that allows for the continuance of said bond after a plea of guilty or of nolo contendere or following conviction without ~~the filing of record of~~ WITH THE COURT THE written consents of the sureties, if any.

**SECTION 6.** In Colorado Revised Statutes, 16-5-204, **amend** (4) (a) as follows:

**16-5-204. Witnesses before a grand jury - procedure.** (4) (a) At the option of the prosecuting attorney, a grand jury subpoena may contain an advisement of rights. If the prosecuting attorney determines that an advisement is necessary, the grand jury subpoena shall contain the following advisement prominently displayed on the front of the subpoena:

## NOTICE

(I) You have the right to retain an attorney to represent you and to advise you regarding your grand jury appearance.

(II) Anything you say to the grand jury may be used against you in a court of law.

(III) You have the right to refuse to answer questions if you feel the answers would tend to incriminate you or to implicate you in any illegal activity.

(IV) If you cannot afford or obtain an attorney, ~~you may consult with the public defender's office, or~~ YOU MAY request the court to appoint an attorney to CONSULT WITH OR represent you.

**SECTION 7.** In Colorado Revised Statutes, **amend** 16-10-105 as follows:

**16-10-105. Alternate jurors.** The court may direct that a sufficient number of jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror shall be discharged when the jury retires to consider its verdict or at such time as determined by the court. When alternate jurors are impaneled, each side is entitled to one peremptory challenge in addition to those otherwise allowed by law. IN A CASE IN WHICH A CLASS 1, 2, OR 3 FELONY, AS DESCRIBED IN SECTION 18-1.3-401 (1) (a) (IV) AND (1) (a) (V), C.R.S., IS CHARGED AND IN ANY CASE IN WHICH A FELONY LISTED IN SECTION 24-4.1-302 (1), C.R.S., IS CHARGED, THE COURT SHALL IMPANEL AT LEAST ONE JUROR TO SIT AS AN ALTERNATE IF REQUESTED BY ANY PARTY.

**SECTION 8.** In Colorado Revised Statutes, 16-11-101.6, **amend**

(4) as follows:

**16-11-101.6. Collection of fines and fees - methods - charges - judicial collection enhancement fund.** (4) (a) On past due orders, the court may, ON ITS OWN MOTION OR THROUGH THE USE OF A COLLECTIONS INVESTIGATOR, direct that a certain portion of a defendant's earnings, not to exceed fifty percent, be withheld and applied to any unpaid fines or fees, if such an order does not adversely impact the defendant's ability to comply with other orders of the court. An attachment of earnings under this section may be modified to a lesser or greater amount based upon changes in a defendant's circumstances as long as the amount withheld does not exceed fifty percent and may be suspended or cancelled at the court's discretion. For purposes of this section, "earnings" shall have the same meaning as set forth in section 13-54.5-101 (2), C.R.S., and shall include profits.

(b) AN ATTACHMENT OF EARNINGS OR A WRIT OF GARNISHMENT TO COLLECT JUDGMENTS FROM A GARNISHEE'S EARNINGS FOR COURT ASSESSMENTS, INCLUDING FINES, FEES, COSTS, RESTITUTION, AND SURCHARGES PURSUANT TO THIS SECTION OR SECTION 16-18.5-105:

(I) HAS PRIORITY OVER ANY OTHER GARNISHMENT, LIEN, OR INCOME ASSIGNMENT EXCEPT FOR A WRIT FOR ARREARAGES FOR CHILD SUPPORT, FOR MAINTENANCE WHEN COMBINED WITH CHILD SUPPORT, FOR CHILD SUPPORT DEBTS, OR FOR MAINTENANCE OR A WRIT PREVIOUSLY SERVED ON THE SAME GARNISHEE PURSUANT TO THIS SECTION; AND

(II) SHALL REQUIRE THE GARNISHEE TO WITHHOLD, PURSUANT TO SECTION 13-54-104 (3), C.R.S., THE PORTION OF EARNINGS SUBJECT TO GARNISHMENT AT EACH SUCCEEDING EARNINGS DISBURSEMENT INTERVAL UNTIL THE JUDGMENT IS SATISFIED OR THE GARNISHMENT IS RELEASED BY THE COURT OR IN WRITING BY THE JUDGMENT CREDITOR.

**SECTION 9.** In Colorado Revised Statutes, 16-11-102, **amend** (1) (b) as follows:

**16-11-102. Presentence or probation investigation.** (1) (b) Each presentence report prepared regarding a sex offender, as defined in section 16-11.7-102 (2), with respect to any offense committed on or after January 1, 1996, shall contain the results of an evaluation and identification conducted pursuant to article 11.7 of this title; EXCEPT THAT, IF THE

OFFENSE IS A MISDEMEANOR PURSUANT TO TITLE 42, C.R.S., OR THE HISTORY OF SEX-OFFENDING BEHAVIOR WAS A MISDEMEANOR SEX OFFENSE COMMITTED WHEN THE DEFENDANT WAS A JUVENILE, AN EVALUATION AND IDENTIFICATION CONDUCTED PURSUANT TO ARTICLE 11.7 OF THIS TITLE IS NOT REQUIRED BUT MAY BE ORDERED BY THE COURT. In addition, the presentence report shall include, when appropriate as provided in section 18-3-414.5, C.R.S., the results of the risk assessment screening instrument developed pursuant to section 16-11.7-103 (4) (d). Notwithstanding the provisions of subsection (4) of this section, a presentence report shall be prepared for each person convicted as a sex offender, and the court may not dispense with the presentence evaluation, risk assessment, and report unless ~~such a report~~ AN EVALUATION AND RISK ASSESSMENT has been completed within the last ~~six months~~ TWO YEARS and there has been no material change that would affect the ~~report~~ EVALUATION AND RISK ASSESSMENT in the past ~~six months~~ TWO YEARS.

**SECTION 10.** In Colorado Revised Statutes, 16-18.5-105, **amend** (3) (b) as follows:

**16-18.5-105. Monitoring - default - penalties.** (3) Whenever a defendant fails to make a payment of restitution within five days after the date that the payment is due pursuant to a payment schedule established pursuant to this article, in addition to any other remedy, the collections investigator may:

(b) ~~Request that the clerk of the court~~ Issue an attachment of earnings requiring that a certain portion of a defendant's earnings, not to exceed fifty percent, be withheld and applied to any unpaid restitution, if such an attachment does not adversely impact the defendant's ability to comply with other orders of the court. An attachment of earnings under this paragraph (b) may be modified to a lesser or greater amount based upon changes in a defendant's circumstances as long as the amount withheld does not exceed fifty percent and may be suspended or cancelled at the court's discretion. An attachment of earnings issued pursuant to this paragraph (b) shall be enforceable in the same manner as a garnishment in a civil action. For purposes of this section, "earnings" shall have the same meaning as set forth for any type of garnishment in section 13-54.5-101, C.R.S., and shall include profits.

**SECTION 11.** In Colorado Revised Statutes, 18-1.3-102, **amend**

(1) as follows:

**18-1.3-102. Deferred sentencing of defendant.** (1) (a) In any case in which the defendant has entered a plea of guilty, the court accepting the plea has the power, with the written consent of the defendant and his or her attorney of record and the district attorney, to continue the case FOR THE PURPOSE OF ENTERING JUDGMENT AND SENTENCE UPON THE PLEA OF GUILTY for a period not to exceed four years FOR A FELONY OR TWO YEARS FOR A MISDEMEANOR OR PETTY OFFENSE OR TRAFFIC OFFENSE. THE PERIOD SHALL BEGIN TO RUN ~~from the date of entry of a plea to a felony or two years from the date of entry of a plea to a misdemeanor, or petty offense, or traffic offense. for the purpose of entering judgment and sentence upon such plea of guilty;~~ THAT THE COURT CONTINUES THE CASE.

(b) ~~except that such~~ THE period may be extended for an additional time:

(I) Up to one hundred eighty days if the failure to pay restitution is the sole condition of supervision which has not been fulfilled, because of inability to pay, and the defendant has shown a future ability to pay. During such time, the court may place the defendant under the supervision of the probation department; OR

(II) UP TO TWO YEARS IF THE DEFERRED JUDGMENT IS FOR AN OFFENSE LISTED IN SECTION 16-11.7-102 (3), C.R.S., GOOD CAUSE IS SHOWN, AND THE DISTRICT ATTORNEY AND DEFENDANT CONSENT TO THE EXTENSION.

**SECTION 12.** In Colorado Revised Statutes, 18-1.3-201, **add** (5) as follows:

**18-1.3-201. Application for probation.** (5) FOR PURPOSES OF PARAGRAPH (a.5) OF SUBSECTION (2) OF THIS SECTION AND PARAGRAPH (a) OF SUBSECTION (2.5) OF THIS SECTION, "CONVICTION" MEANS A VERDICT OF GUILTY OR THE ENTRY OF A PLEA OF GUILTY OR NOLO CONTENDERE. "CONVICTION" DOES NOT INCLUDE A PLEA TO A DEFERRED JUDGMENT AND SENTENCE PURSUANT TO SECTION 18-1.3-102 UNTIL THE DEFERRED JUDGMENT AND SENTENCE IS REVOKED.

**SECTION 13.** In Colorado Revised Statutes, 18-1.3-204, **amend** (1.5) and (4) as follows:



**18-1.3-204. Conditions of probation - interstate compact probation transfer cash fund - creation.** (1.5) If the defendant is being sentenced to probation as a result of a conviction of a felony offense OR A QUALIFYING MISDEMEANOR OFFENSE PURSUANT TO THE "INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION", PART 28 OF ARTICLE 60 OF TITLE 24, C.R.S., a condition of probation shall be that the court shall require the defendant to execute or subscribe a written prior waiver of extradition stating that the defendant consents to extradition to this state and waives all formal proceedings in the event that he or she is arrested in another state while at liberty on such bail bond and acknowledging that he or she shall not be admitted to bail in any other state pending extradition to this state. IF THE OFFENDER IS RETURNED TO THE STATE PURSUANT TO THE "INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION", PART 28 OF ARTICLE 60 OF TITLE 24, C.R.S., A COURT MAY NOT IMPOSE THE COST OF THE OFFENDER'S RETURN ON THE OFFENDER.

(4) (a) For good cause shown and after notice to the defendant, the district attorney, and the probation officer, and after a hearing if the defendant or the district attorney requests it, the judge may reduce or increase the term of probation or alter the conditions or impose new conditions.

(b) (I) IF AN OFFENDER APPLIES TO TRANSFER HIS OR HER PROBATION TO ANOTHER STATE, THE OFFENDER SHALL PAY A FILING FEE OF ONE HUNDRED DOLLARS, UNLESS THE OFFENDER IS INDIGENT.

(II) (A) THE CLERK OF THE COURT SHALL TRANSMIT ALL MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (b) TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE INTERSTATE COMPACT PROBATION TRANSFER CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS PARAGRAPH (b) AS THE "FUND". BEGINNING JANUARY 1, 2013, THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE JUDICIAL DEPARTMENT FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH RETURNING PROBATIONERS TO COLORADO. THE STATE TREASURER MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS PARAGRAPH (b) AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE FUND AND SHALL

NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(B) ON OR AFTER JANUARY 1, 2013, A LAW ENFORCEMENT AGENCY MAY SUBMIT TO THE STATE COURT ADMINISTRATOR A REQUEST TO BE REIMBURSED FOR THE COSTS OF RETURNING A PROBATIONER PURSUANT TO THE "INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION", PART 28 OF ARTICLE 60 OF TITLE 24, C.R.S., INCURRED ON OR AFTER JANUARY 1, 2013. THE STATE COURT ADMINISTRATOR SHALL, TO THE EXTENT THAT FUNDS ARE AVAILABLE, REIMBURSE REASONABLE COSTS INCURRED BY A LAW ENFORCEMENT AGENCY FOR THE RETURN OF THE PROBATIONER.

**SECTION 14.** In Colorado Revised Statutes, 18-1.3-1004, **repeal** (4) as follows:

**18-1.3-1004. Indeterminate sentence.** ~~(4) (a) The court may sentence any person pursuant to the provisions of this section if:~~

~~(I) The person is convicted of or pleads guilty or nolo contendere to a crime specified in paragraph (b) of this subsection (4); and~~

~~(II) An assessment of the person pursuant to section 16-11.7-104, C.R.S., determines that the person is likely to commit one or more of the offenses specified in section 18-3-414.5(1)(a)(II), under the circumstances described in section 18-3-414.5(1)(a)(III).~~

~~(b) The provisions of this subsection (4) shall apply to any person who is convicted of or pleads guilty or nolo contendere to any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:~~

~~(I) Trafficking in children, as described in section 18-3-502;~~

~~(II) Sexual exploitation of children, as described in section 18-6-403;~~

~~(III) Procurement of a child for sexual exploitation, as described in section 18-6-404;~~

~~(IV) Soliciting for child prostitution, as described in section~~

~~18-7-402;~~

~~(V) Pandering of a child, as described in section 18-7-403;~~

~~(VI) Procurement of a child, as described in section 18-7-403.5;~~

~~(VII) Keeping a place of child prostitution, as described in section 18-7-404;~~

~~(VIII) Pimping of a child, as described in section 18-7-405;~~

~~(IX) Inducement of child prostitution, as described in section 18-7-405.5.~~

~~(c) Any person sentenced as a sex offender pursuant to this subsection (4) shall be subject to the provisions of this part 10.~~

**SECTION 15.** In Colorado Revised Statutes, 18-8-104, **amend** (2) as follows:

**18-8-104. Obstructing a peace officer, firefighter, emergency medical services provider, rescue specialist, or volunteer.** (2) It is ~~no~~ NOT A defense to a prosecution under this section that the peace officer was acting in an illegal manner, if he OR SHE was acting under color of his OR HER official authority. ~~as defined in section 18-8-103 (2)~~ A PEACE OFFICER ACTS "UNDER COLOR OF HIS OR HER OFFICIAL AUTHORITY" IF, IN THE REGULAR COURSE OF ASSIGNED DUTIES, HE OR SHE MAKES A JUDGMENT IN GOOD FAITH BASED ON SURROUNDING FACTS AND CIRCUMSTANCES THAT HE OR SHE MUST ACT TO ENFORCE THE LAW OR PRESERVE THE PEACE.

**SECTION 16.** In Colorado Revised Statutes, 18-13-122, **amend** (10) as follows:

**18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person - definitions - adolescent substance abuse prevention and treatment fund - legislative declaration.** (10) Upon the expiration of one year from the date of a conviction, DISMISSAL, COMPLETION OF DEFERRED JUDGMENT, OR CONCLUSION OF DEFERRED PROSECUTION for a violation of subsection (2) of this section, ~~any~~ THE person convicted of such violation may petition the court in which the

conviction was ~~entered~~ ASSIGNED for an order sealing the record of such conviction. The court shall grant such petition if the petitioner has not been arrested for, charged with, or convicted of any felony, misdemeanor, or petty offense during the period of one year following the date of such petitioner's conviction for a violation of subsection (2) of this section.

**SECTION 17.** In Colorado Revised Statutes, 18-21-103, **amend** (3) as follows:

**18-21-103. Source of revenues - allocation of moneys - sex offender surcharge fund - creation.** (3) There is hereby created in the state treasury a sex offender surcharge fund which shall consist of moneys received by the state treasurer pursuant to paragraph (b) of subsection (2) of this section. ~~In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of this fund shall be credited to the general fund.~~ THE STATE TREASURER MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND TO THE FUND. Any moneys not appropriated by the general assembly shall remain in the sex offender surcharge fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of human services, after consideration of the plan developed pursuant to section 16-11.7-103 (4) (c), C.R.S., to cover the direct and indirect costs associated with the evaluation, identification, and treatment and the continued monitoring of sex offenders.

**SECTION 18.** In Colorado Revised Statutes, 19-2-709, **amend** (1); and **add** (1.5) as follows:

**19-2-709. Deferral of adjudication.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (1.5) OF THIS SECTION, in any case in which the juvenile has agreed with the district attorney to enter a plea of guilty, the court, with the consent of the juvenile and the district attorney, upon accepting the guilty plea AND ENTERING AN ORDER DEFERRING ADJUDICATION, may continue the case for a period not to exceed one year from the date of entry of the ~~plea~~ ORDER DEFERRING ADJUDICATION. The

court may continue the case for an additional one-year period for good cause.

(1.5) IN A CASE IN WHICH THE JUVENILE HAS AGREED WITH THE DISTRICT ATTORNEY TO ENTER A PLEA OF GUILTY, RESULTING IN A CONVICTION AS DEFINED IN SECTION 16-22-102 (3), C.R.S., FOR UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S., THE COURT, WITH THE CONSENT OF THE JUVENILE AND DISTRICT ATTORNEY, UPON ACCEPTING THE GUILTY PLEA AND ENTERING AN ORDER DEFERRING ADJUDICATION, MAY CONTINUE THE CASE FOR A PERIOD OF TIME NOT TO EXCEED TWO YEARS FROM THE DATE OF THE ORDER DEFERRING ADJUDICATION. UPON A SHOWING OF GOOD CAUSE, THE COURT MAY CONTINUE THE CASE FOR ADDITIONAL TIME, NOT TO EXCEED FIVE YEARS FROM THE DATE OF THE ORDER DEFERRING ADJUDICATION.

**SECTION 19.** In Colorado Revised Statutes, 19-2-907, **amend** (5) (a) as follows:

**19-2-907. Sentencing schedule - options.** (5) (a) Except as otherwise provided in section 19-2-601 for an aggravated juvenile offender, if the court finds that placement out of the home is necessary and is in the best interests of the juvenile and the community, the court shall place the juvenile, following the criteria established pursuant to section 19-2-212, in the facility or setting that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. In making its decision as to proper placement, the court shall utilize the evaluation for placement prepared pursuant to section 19-1-107 or the evaluation for placement required by section 19-1-115 (8) (e). Any placement recommendation in the evaluation prepared by the county department of social services shall be accorded great weight as the placement that most appropriately meets the needs of the juvenile, the juvenile's family, and the community. ~~Any deviation from such recommendation shall be supported by specific findings on the record of the case detailing the specific extraordinary circumstances that constitute the reasons for deviations from the placement recommendation of the county department of social services.~~ Such recommendation prepared by the county department of social services shall set forth specific facts and reasons for the placement recommendation. If the evaluation for placement recommends placement in a facility located in Colorado that can provide appropriate treatment and that will accept the juvenile, then the court shall not place the juvenile in a facility outside this

state. If the court places the juvenile in a facility located in Colorado other than one recommended by the evaluation for placement, in a facility located outside this state in accordance with the evaluation for placement, or in a facility in which the average monthly cost exceeds the amount established by the general assembly in the general appropriation bill, it shall make specific findings of fact, including the monthly cost of the facility in which such juvenile is placed, relating to its placement decision. A copy of such findings shall be sent to the chief justice of the supreme court, who shall report monthly to the joint budget committee and annually to the house and senate committees on health and human services, or any successor committees, on such placements. If the court commits the juvenile to the department of human services, it shall not make a specific placement, nor shall the provisions of this subsection (5) relating to specific findings of fact be applicable.

**SECTION 20.** In Colorado Revised Statutes, 25.5-6-206, **amend** (8) (a) and (8) (d) as follows:

**25.5-6-206. Personal needs benefits - amount - patient personal needs trust fund required - funeral and burial expenses - penalty for illegal retention and use.** (8) (a) It is unlawful for any person to knowingly fail to deposit personal needs funds received from a patient or from the state department for a patient's personal needs into the patients' personal needs trust fund within sixty days after the receipt of such moneys or to knowingly apply, spend, commit, pledge, or otherwise use a patient personal needs trust fund, or any other moneys paid by a patient or the state department for patient personal needs, for any purpose other than the personal needs of the patient to purchase necessary clothing, incidentals, or other items of personal needs that are not reimbursed by any federal or state program. Deposit or use of personal needs funds, including the use of a petty cash fund for personal needs purposes, is not a violation of this section if such deposit or use is in substantial compliance with applicable rules of the state department. ~~nor shall~~ Sums later ordered repaid to the patients' personal needs trust fund as a result of an audit adjustment RELATED TO SIMPLE ACCOUNTING ERRORS SUCH AS DATA ENTRY ERRORS, MATHEMATICAL ERRORS, OR POSTING ERRORS or a dispute related to a proration of patient payment ~~be determined to constitute~~ IS NOT a violation of this section.

(d) Unlawful use of a patient personal needs trust fund is:

(I) A ~~class 3~~ CLASS 2 misdemeanor, if the amount involved is less than ~~one~~ FIVE hundred dollars;

(II) A ~~class 2~~ CLASS 1 misdemeanor, if the amount involved is ~~one~~ FIVE hundred dollars or more but less than ~~five hundred~~ ONE THOUSAND dollars;

(III) A class 4 felony, if the amount involved is ~~five hundred~~ ONE THOUSAND dollars or more but less than ~~fifteen~~ TWENTY thousand dollars;

(IV) A class 3 felony, if the amount involved is ~~fifteen~~ TWENTY thousand dollars or more.

**SECTION 21.** In Colorado Revised Statutes, 42-4-1307, **amend** (5) (a) (IV) and (6) (a) (IV) as follows:

**42-4-1307. Penalties for traffic offenses involving alcohol and drugs - repeal.** (5) **Second offenses.** (a) Except as otherwise provided in subsection (6) of this section, a person who is convicted of DUI, DUI per se, DWAI, or habitual user who, at the time of sentencing, has a prior conviction of DUI, DUI per se, DWAI, habitual user, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d), shall be punished by:

(IV) A period of probation of at least two years, which period shall begin immediately upon the commencement of any part of the sentence that is imposed upon the person pursuant to this section, and a suspended sentence of imprisonment in the county jail for one year, as described in subsection (7) of this section; EXCEPT THAT THE COURT SHALL NOT SENTENCE THE DEFENDANT TO PROBATION IF THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF CORRECTIONS BUT SHALL STILL SENTENCE THE DEFENDANT TO THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION. THE DEFENDANT SHALL COMPLETE ALL COURT-ORDERED PROGRAMS PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) BEFORE THE COMPLETION OF HIS OR HER PERIOD OF PAROLE.

(6) **Third and subsequent offenses.** (a) A person who is convicted

of DUI, DUI per se, DWAI, or habitual user who, at the time of sentencing, has two or more prior convictions of DUI, DUI per se, DWAI, habitual user, vehicular homicide pursuant to section 18-3-106 (1) (b), C.R.S., vehicular assault pursuant to section 18-3-205 (1) (b), C.R.S., aggravated driving with a revoked license pursuant to section 42-2-206 (1) (b) (I) (A) or (1) (b) (I) (B), or driving while the person's driver's license was under restraint pursuant to section 42-2-138 (1) (d) shall be punished by:

(IV) A period of probation of at least two years, which period shall begin immediately upon the commencement of any part of the sentence that is imposed upon the person pursuant to this section, and a suspended sentence of imprisonment in the county jail for one year, as described in subsection (7) of this section; EXCEPT THAT THE COURT SHALL NOT SENTENCE THE DEFENDANT TO PROBATION IF THE DEFENDANT IS SENTENCED TO THE DEPARTMENT OF CORRECTIONS, BUT SHALL STILL SENTENCE THE DEFENDANT TO THE PROVISIONS OF PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION. THE DEFENDANT SHALL COMPLETE ALL COURT-ORDERED PROGRAMS PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION BEFORE THE COMPLETION OF HIS OR HER PERIOD OF PAROLE.

**SECTION 22.** In Colorado Revised Statutes, 17-22.5-403.5, **amend** (3) (c) (II) as follows:

**17-22.5-403.5. Special needs parole.** (3) (c) (II) At the same time that the department completes the notification required by subparagraph (I) of this paragraph (c), the department shall notify the district attorney that prosecuted the offender if the offender is serving a sentence for a conviction of a crime of violence as described in section 18-1.3-406, C.R.S., or a sex offense as listed in section ~~18-1.3-1004~~ (4) 16-22-102 (9) (j), (9) (k), (9) (l), (9) (n), (9) (o), (9) (p), (9) (q), (9) (r), OR (9) (s), C.R.S. A district attorney shall have thirty days after receiving notification to submit a response to the department. The department shall include any district attorney response in the referral to the state board of parole.

**SECTION 23.** In Colorado Revised Statutes, 18-1.3-1003, **amend** (4) as follows:

**18-1.3-1003. Definitions.** As used in this part 10, unless the context otherwise requires:



(4) "Sex offender" means a person who is convicted of or pleads guilty or nolo contendere to a sex offense. ~~"Sex offender" also means any person sentenced as a sex offender pursuant to section 18-1.3-1004 (4).~~

**SECTION 24.** In Colorado Revised Statutes, 18-1.3-1004, **amend** (5) (a) as follows:

**18-1.3-1004. Indeterminate sentence.** (5) (a) Any sex offender sentenced pursuant to subsection (1) ~~or (4)~~ of this section and convicted of one or more additional crimes arising out of the same incident as the sex offense shall be sentenced for the sex offense and such other crimes so that the sentences are served consecutively rather than concurrently.

**SECTION 25.** In Colorado Revised Statutes, 18-1.3-1005, **amend** (1) (c) as follows:

**18-1.3-1005. Parole - intensive supervision program.** (1) The department shall establish an intensive supervision parole program for sex offenders sentenced to incarceration and subsequently released on parole pursuant to this part 10. In addition, the parole board may require a person, as a condition of parole, to participate in the intensive supervision parole program established pursuant to this section if the person is convicted of:

(c) Any of the offenses specified in section ~~18-1.3-1004 (4) (b)~~ 16-22-102 (9) (j), (9) (k), (9) (l), (9) (n), (9) (o), (9) (p), (9) (q), (9) (r), OR (9) (s), C.R.S.

**SECTION 26.** In Colorado Revised Statutes, 18-1.3-1007, **amend** (1) (a) (III) as follows:

**18-1.3-1007. Probation - intensive supervision program.** (1) (a) The judicial department shall establish an intensive supervision probation program for sex offenders sentenced to probation pursuant to this part 10. In addition, the court shall require a person, as a condition of probation, to participate in the intensive supervision probation program established pursuant to this section if the person is convicted of one of the following offenses and sentenced to probation:

(III) Any of the offenses specified in section ~~18-1.3-1004 (4) (b)~~ 16-22-102 (9) (j), (9) (k), (9) (l), (9) (n), (9) (o), (9) (p), (9) (q), (9) (r), OR

(9) (s), C.R.S.;

**SECTION 27.** In Colorado Revised Statutes, 17-2-201, **amend** (3) (h.1) (I) as follows:

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

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

(I) To conduct parole application hearings for inmates convicted of ~~nonviolent~~ CLASS 4, CLASS 5, OR CLASS 6 felonies who have been assessed to be ~~low or very low risk~~ LESS THAN HIGH RISK by the Colorado risk assessment scale developed pursuant to section 17-22.5-404 (2) (a), C.R.S., pursuant to rules adopted by the parole board; and

**SECTION 28.** In Colorado Revised Statutes, 16-11.3-103, **add** (2.7) as follows:

**16-11.3-103. Duties of the commission - mission - staffing - repeal.** (2.7) (a) USING EMPIRICAL ANALYSIS AND EVIDENCE-BASED DATA AND RESEARCH, THE COMMISSION SHALL CONSIDER THE DEVELOPMENT OF A COMPREHENSIVE DRUG SENTENCING SCHEME FOR ALL DRUG CRIMES DESCRIBED IN ARTICLE 18 OF TITLE 18, C.R.S. THE SENTENCING SCHEME SHALL CONSIDER:

(I) DEVELOPMENT OF A SENTENCING STRUCTURE THAT BETTER DIFFERENTIATES DRUG OFFENDERS WHO ARE PRIMARILY USERS AND ADDICTS FROM THOSE MORE SERIOUS OFFENDERS WHO ARE INVOLVED IN DRUG DISTRIBUTION, MANUFACTURING, OR TRAFFICKING;

(II) DEVELOPMENT OF RESOURCES THROUGH CHANGES IN THE CRIMINAL CODE THAT WILL ENHANCE INTERVENTION, SUPERVISION, AND TREATMENT IN THE COMMUNITY AND ENHANCE PUBLIC SAFETY BY ADDRESSING DRUG ABUSE AND ADDICTION AND BY DECREASING CRIME THROUGH DRUG ABUSE RECOVERY;

(III) METHODS BY WHICH OFFENDERS CAN GAIN ACCESS TO ASSESSMENT-BASED TREATMENT SERVICES THAT ARE BASED ON TREATMENT

NEED REGARDLESS OF THE LEVEL OR CLASSIFICATION OF THE CRIME;

(IV) CREATION OF EQUIVALENT PENALTIES FOR CRIMES THAT POSE SIMILAR RISKS TO PUBLIC SAFETY;

(V) ENHANCEMENT OF PENALTIES WHEN BEHAVIORS CLEARLY PRESENT A PUBLIC SAFETY RISK;

(VI) DEVELOPMENT OF RESOURCES FOR ADDITIONAL PRE-FILING DIVERSION PROGRAMS AROUND THE STATE FOR DRUG OFFENDERS;

(VII) USE OF DRUG COURTS AND HOW LEGISLATIVE CHANGES COULD SUPPORT MORE EFFECTIVE USE OF THOSE RESOURCES;

(VIII) RELEVANT NEGATIVE IMPACTS RELATED TO CRIMINAL CONVICTIONS; AND

(IX) ANY OTHER ISSUES THAT THE COMMISSION DETERMINES TO BE IMPORTANT AND RELEVANT TO THE GOALS OF THE COMMISSION AND THE LEGISLATIVE INTENT OF HOUSE BILL 12-1310, ENACTED IN 2012.

(b) BY DECEMBER 15, 2012, THE COMMISSION SHALL PROVIDE TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR THEIR SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE COMMISSION'S RECOMMENDATIONS FOR A COMPREHENSIVE DRUG SENTENCING SCHEME. IF THE COMMISSION IS UNABLE TO BRING FORTH ANY RECOMMENDATIONS FOR THE GENERAL ASSEMBLY TO CONSIDER, THE COMMISSION SHALL PROVIDE IN THE REPORT THE REASONS THE COMMISSION COULD NOT MAKE ANY RECOMMENDATIONS AND, IF POSSIBLE, DESCRIBE THE SPECIFIC AREAS OF DISAGREEMENT THAT PREVENTED THE COMMISSION FROM MAKING ANY RECOMMENDATIONS.

(c) THIS SUBSECTION (2.7) IS REPEALED, EFFECTIVE JULY 1, 2013.

**SECTION 29.** In Colorado Revised Statutes, 18-18-102, **amend** (5); and **add** (3.5) as follows:

**18-18-102. Definitions.** As used in this article:

(3.5) (a) "CATHINONES" MEANS ANY SYNTHETIC OR NATURAL

MATERIAL CONTAINING ANY QUANTITY OF A CATHINONE CHEMICAL STRUCTURE, INCLUDING ANY ANALOGS, SALTS, ISOMERS, OR SALTS OF ISOMERS OF ANY SYNTHETIC OR NATURAL MATERIAL CONTAINING A CATHINONE CHEMICAL STRUCTURE, INCLUDING BUT NOT LIMITED TO THE FOLLOWING SUBSTANCES AND ANY ANALOGS, SALTS, ISOMERS, OR SALTS OF ISOMERS OF ANY OF THE FOLLOWING SUBSTANCES:

- (I) ALPHA-PHTHALIMIDOPROPIOPHENONE;
- (II) N, N-DIMETHYLCATHINONE (METAMFEPRAMONE);
- (III) N-ETHYLCATHINONE (ETHCATHINONE);
- (IV) ALPHA-PYRROLIDINOPROPIOPHENONE ( $\alpha$ -PPP);
- (V) 2-METHYLAMINO-1-PHENYLBUTAN-1-ONE (BUPHEDRONE);
- (VI) ALPHA-PYRROLIDINOBUTIOPHENONE ( $\alpha$ -PBP);
- (VII) ALPHA-PYRROLIDINOVALEROPHENONE ( $\alpha$ -PVP, PVP);
- (VIII) 4-METHYLMETHCATHINONE (4-MMC, MEPHEDRONE);
- (IX) 4'-METHYL-ALPHA-PYRROLIDINOPROPIOPHENONE (MPPP);
- (X) 4'-METHYL-ALPHA-PYRROLIDINOBUTIOPHENONE (MPBP);
- (XI) 4'-METHYL-ALPHA-PYRROLIDINOHEXIOPHENONE (MPHP);
- (XII) 4-METHOXYMETHCATHINONE (PMMC, METHEDRONE, BK-PMMA);
- (XIII) 4'-METHOXY-ALPHA-PYRROLIDINOPROPIOPHENONE (MOPPP);
- (XIV) FLUOROMETHCATHINONE (4-FMC, FLEPHEDRONE, 3-FMC);
- (XV) 3,4-METHYLENEDIOXYMETHCATHINONE (METHYLONE, BK-MDMA);
- (XVI) 3,4-METHYLENEDIOXYETHCATHINONE (ETHYLONE, BK-

MDEA);

(XVII) 3',4'-METHYLENEDIOXY-ALPHA-PYRROLIDINOPROPIOPHENONE (MDPPP);

(XVIII) 2-METHYLAMINO-1-(3,4-METHYLENEDIOXYPHENYL)-1-BUTANONE (BUTYLONE, BK-MDBD);

(XIX) 3',4'-METHYLENEDIOXY-ALPHA-PYRROLIDINOBTIOPHENONE (MDPBP);

(XX) 2-METHYLAMINO-1-(3,4-METHYLENEDIOXYPHENYL)-1-CPENTANONE (BK-MBDP);

(XXI) 3,4-METHYLENEDIOXYPYROVALERONE (MDPV);

(XXII) NAPHTHYLPYROVALERONE (NAPHYRONE);

(XXIII) 2-(METHYLAMINO)-1-PHENYL-1-PENTANONE PENTEDRONE);

AND

(XXIV) N-METHYLETHCATHINONE (4-MEC).

(b) "CATHINONES" DOES NOT INCLUDE DIETHYLPROPRION OR BUPROPRION.

(c) AS USED IN THIS SUBSECTION (3.5), "ANALOG" MEANS ANY CHEMICAL THAT IS SUBSTANTIALLY SIMILAR IN CHEMICAL STRUCTURE TO THE CHEMICAL STRUCTURE OF ANY CATHINONES.

(5) "Controlled substance" means a drug, substance, or immediate precursor included in schedules I through V of part 2 of this article, including cocaine, marijuana, marijuana concentrate, A CATHINONE, any synthetic cannabinoid, and salvia divinorum.

**SECTION 30.** In Colorado Revised Statutes, **repeal** 18-18-203 (2) (e) (I).

**SECTION 31.** In Colorado Revised Statutes, **add** 18-18-406.7 and 18-18-406.8 as follows:

**18-18-406.7. Unlawful possession of cathinones.** (1) IT IS UNLAWFUL FOR ANY PERSON TO POSSESS ANY AMOUNT OF ANY CATHINONES.

(2) A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR.

**18-18-406.8. Unlawful distribution, manufacturing, dispensing, or sale of cathinones.** (1) IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY:

(a) DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR TO POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, ANY AMOUNT OF ANY CATHINONES; OR

(b) INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE OTHER PERSONS TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, ANY AMOUNT OF ANY CATHINONES.

(2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 3 FELONY AND SHALL BE SENTENCED AS PROVIDED IN SECTION 18-1.3-401; EXCEPT THAT, UNLESS A GREATER SENTENCE IS PROVIDED UNDER ANY OTHER STATUTE, THE PERSON SHALL BE SENTENCED TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF AT LEAST THE MINIMUM, BUT NOT MORE THAN TWICE THE MAXIMUM, OF THE PRESUMPTIVE RANGE PROVIDED FOR THE OFFENSE IN SECTION 18-1.3-401 (1) (a) AS MODIFIED PURSUANT TO SECTION 18-1.3-401 (10), IF THE PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND:

(a) DISTRIBUTED, DISPENSED, OR SOLD; OR POSSESSED WITH INTENT TO DISTRIBUTE, DISPENSE, OR SELL; ANY AMOUNT OF ANY CATHINONES TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT LEAST TWO YEARS YOUNGER THAN SAID PERSON; OR

(b) INDUCED, ATTEMPTED TO INDUCE, OR CONSPIRED WITH ONE OR MORE OTHER PERSONS TO DISTRIBUTE, DISPENSE, OR SELL ANY AMOUNT OF ANY CATHINONES TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT LEAST TWO YEARS YOUNGER THAN SAID PERSON.

**SECTION 32.** In Colorado Revised Statutes, **add** 6-1-723 as

follows:

**6-1-723. Cathinone bath salts - deceptive trade practice.** (1) IT IS UNLAWFUL FOR ANY PERSON OR ENTITY TO DISTRIBUTE, DISPENSE, MANUFACTURE, OR SELL TO A PURCHASER ANY PRODUCT THAT IS LABELED AS A BATH SALT OR ANY OTHER TRADEMARK IF THE PRODUCT CONTAINS ANY AMOUNT OF ANY CATHINONES, AS DEFINED IN SECTION 18-18-102 (3.5), C.R.S.

(2) A VIOLATION OF THIS SECTION SHALL BE DEEMED A DECEPTIVE TRADE PRACTICE AS PROVIDED IN SECTION 6-1-105 (1) (e), AND THE VIOLATOR SHALL BE SUBJECT TO A CIVIL PENALTY AS DESCRIBED IN SECTION 6-1-112 (1) (d) IN ADDITION TO ANY APPLICABLE CRIMINAL PENALTY.

**SECTION 33.** In Colorado Revised Statutes, 6-1-112, **add** (1) (d) as follows:

**6-1-112. Civil penalties.** (1) (d) ANY PERSON WHO VIOLATES OR CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF SECTIONS 6-1-105 (1) (e) AND 6-1-723 BY DISTRIBUTING, DISPENSING, OR SELLING ANY PRODUCT THAT IS LABELED AS A "BATH SALT" OR ANY OTHER TRADEMARK IF THE PRODUCT CONTAINS ANY AMOUNT OF ANY CATHINONES, AS DEFINED IN SECTION 18-18-102 (3.5), C.R.S., SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TEN THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH SUCH VIOLATION; EXCEPT THAT THE PERSON SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH SUCH VIOLATION IF THE PERSON DISTRIBUTES, DISPENSES, OR SELLS THE PRODUCT TO A MINOR UNDER THE AGE OF EIGHTEEN AND THE PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TWO YEARS OLDER THAN THE MINOR.

**SECTION 34. Exception to the requirements of section 2-2-703, Colorado Revised Statutes.** The general assembly hereby finds that section 18-18-406.8, Colorado Revised Statutes, which is added to statute in this act, will result in the minor fiscal impact of one additional offender being convicted and sentenced to the department of corrections during the five years following passage of this act. Because of the relative insignificance of this degree of fiscal impact, these amendments are an exception to the

five-year appropriation requirements specified in section 2-2-703, Colorado Revised Statutes.

**SECTION 35.** In Colorado Revised Statutes, 18-19-103, **amend** (3) (d), (3.5) (b), (4) (a), (5), and (5.5); **add** (4) (a.5); and **repeal** (3.5) (a) as follows:

**18-19-103. Source of revenues - allocation of moneys - repeal.**

(3) The clerk of the court shall disburse the surcharge required by subsection (1) of this section as follows:

(d) Ninety percent shall be disbursed to the state treasurer who shall credit the same to the ~~drug offender surcharge fund~~ CORRECTIONAL TREATMENT CASH FUND created pursuant to subsection (4) of this section.

~~(3.5) (a) Moneys appropriated by the general assembly pursuant to House Bill 10-1352, enacted in 2010, shall be deposited into the drug offender surcharge fund created pursuant to subsection (4) of this section and shall be allocated pursuant to section 16-11.5-102 (3) (c), C.R.S.~~

~~(b) Each fiscal year, The general assembly shall appropriate to the drug offender surcharge fund CORRECTIONAL TREATMENT CASH FUND created pursuant to subsection (4) of this section the savings generated by AT LEAST SEVEN MILLION SIX HUNDRED FIFTY-SIX THOUSAND TWO HUNDRED DOLLARS IN FISCAL YEAR 2012-13 FROM THE GENERAL FUND, AT LEAST NINE MILLION FIVE HUNDRED THOUSAND DOLLARS IN FISCAL YEAR 2013-14 FROM THE GENERAL FUND, AND EACH YEAR THEREAFTER GENERATED FROM ESTIMATED SAVINGS FROM House Bill 10-1352, enacted in 2010. The appropriation shall be made after consideration of the division of criminal justice's annual report required pursuant to section 24-33.5-503 (1) (u), C.R.S.~~

(4) (a) There is hereby created in the state treasury a ~~drug offender surcharge fund~~ THE CORRECTIONAL TREATMENT CASH FUND, REFERRED TO IN THIS PARAGRAPH (a) AS THE "FUND", which shall consist of moneys received by the state treasurer pursuant to paragraph (d) of subsection (3) of this section and subsection (3.5) of this section, AND, IN ADDITION, EACH YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST TWO MILLION TWO HUNDRED THOUSAND DOLLARS GENERATED FROM ESTIMATED SAVINGS FROM THE ENACTMENT OF SENATE BILL 03-318, ENACTED IN 2003, TO THE



FUND. THE MONEYS IN THE FUND SHALL BE USED FOR THE PURPOSES DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (5) OF THIS SECTION. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated by the general assembly shall remain in the ~~drug offender surcharge~~ fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. ~~All moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of human services, after consideration of the plan developed pursuant to section 16-11.5-102 (3), C.R.S., to cover the costs associated with substance abuse assessment, testing, education, and treatment.~~

(a.5) AFTER THE DRUG OFFENDER SURCHARGE FUND IS RENAMED THE CORRECTIONAL TREATMENT CASH FUND, ANY APPROPRIATION MADE BY THE GENERAL ASSEMBLY FROM THE DRUG OFFENDER SURCHARGE FUND FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2011, IS FROM THE CORRECTIONAL TREATMENT CASH FUND CREATED IN PARAGRAPH (a) OF THIS SUBSECTION (4). THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE JULY 1, 2012.

~~(5) The department of public safety shall award such moneys received by it pursuant to subsection (4) of this section as are designated in the plan developed pursuant to section 16-11.5-102 (3), C.R.S., and appropriated by the general assembly for such purpose~~ (a) THE CORRECTIONAL TREATMENT BOARD, CREATED HEREIN AND REFERRED TO IN THIS SUBSECTION (5) AS THE "BOARD", SHALL PREPARE AN ANNUAL TREATMENT FUNDING PLAN THAT INCLUDES A FAIR AND REASONABLE ALLOCATION OF RESOURCES FOR PROGRAMS THROUGHOUT THE STATE. THE JUDICIAL DEPARTMENT SHALL INCLUDE THE ANNUAL TREATMENT FUNDING PLAN IN ITS ANNUAL PRESENTATION TO THE JOINT BUDGET COMMITTEE.

(b) THE BOARD CONSISTS OF:

(I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR HIS OR HER DESIGNEE;

(II) THE DIRECTOR OF THE DIVISION OF PROBATION SERVICES IN THE JUDICIAL DEPARTMENT OR HIS OR HER DESIGNEE;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC

SAFETY OR HIS OR HER DESIGNEE;

(IV) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN SERVICES OR HIS OR HER DESIGNEE. IF THE EXECUTIVE DIRECTOR APPOINTS A DESIGNEE, THE EXECUTIVE DIRECTOR IS ENCOURAGED TO SELECT SOMEONE WITH EXPERTISE IN ADDICTION COUNSELING AND SUBSTANCE ABUSE ISSUES;

(V) THE STATE PUBLIC DEFENDER OR HIS OR HER DESIGNEE;

(VI) THE PRESIDENT OF THE STATEWIDE ASSOCIATION REPRESENTING DISTRICT ATTORNEYS OR HIS OR HER DESIGNEE; AND

(VII) THE PRESIDENT OF THE STATEWIDE ASSOCIATION REPRESENTING COUNTY SHERIFFS OR HIS OR HER DESIGNEE.

(c) THE BOARD MAY DIRECT THAT MONEYS IN THE CORRECTIONAL TREATMENT CASH FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

(I) ALCOHOL AND DRUG SCREENING, ASSESSMENT, AND EVALUATION;

(II) ALCOHOL AND DRUG TESTING;

(III) SUBSTANCE ABUSE EDUCATION AND TRAINING;

(IV) AN ANNUAL STATEWIDE CONFERENCE REGARDING SUBSTANCE ABUSE TREATMENT;

(V) TREATMENT FOR ASSESSED SUBSTANCE ABUSE AND CO-OCCURRING DISORDERS;

(VI) RECOVERY SUPPORT SERVICES; AND

(VII) ADMINISTRATIVE SUPPORT TO THE CORRECTIONAL TREATMENT BOARD INCLUDING, BUT NOT LIMITED TO, FACILITATING AND COORDINATING DATA COLLECTION, CONDUCTING DATA ANALYSIS, DEVELOPING CONTRACTS, PREPARING REPORTS, SCHEDULING AND STAFFING BOARD AND SUBCOMMITTEE MEETINGS, AND ENGAGING IN BUDGET PLANNING AND ANALYSIS.

(d) MONEYS FROM THE CORRECTIONAL TREATMENT CASH FUND MAY BE USED TO SERVE THE FOLLOWING POPULATIONS:

(I) ADULTS AND JUVENILES SERVING A DIVERSION SENTENCE FOR A STATE OFFENSE;

(II) ADULTS AND JUVENILES SERVING A PROBATION SENTENCE FOR A STATE OFFENSE, INCLUDING DENVER COUNTY;

(III) ADULTS AND JUVENILES ON PAROLE;

(IV) OFFENDERS SENTENCED OR TRANSITIONED TO A COMMUNITY CORRECTIONS PROGRAM; AND

(V) OFFENDERS SERVING A SENTENCE IN A COUNTY JAIL, ON A WORK-RELEASE PROGRAM SUPERVISED BY THE COUNTY JAIL, OR RECEIVING AFTER-CARE TREATMENT FOLLOWING RELEASE FROM JAIL IF THE OFFENDER PARTICIPATED IN A JAIL TREATMENT PROGRAM.

(e) BEFORE ADOPTING THE ANNUAL TREATMENT FUND PLAN, THE BOARD SHALL REVIEW THE INFORMATION SPECIFIED IN PARAGRAPH (f) OF THIS SUBSECTION (5) AND SHALL CONSIDER PROPOSALS FROM THE DRUG OFFENDER TREATMENT BOARDS CREATED IN SECTION 18-19-104 FOR FUNDING LOCAL ASSESSED TREATMENT NEEDS.

(f) THE BOARD SHALL DETERMINE THE SCOPE, METHOD, AND FREQUENCY OF THE DATA COLLECTION AND THE PARTIES RESPONSIBLE FOR DATA COLLECTION, ANALYSIS, AND REPORTING. THE DATA SHALL BE ORGANIZED BY JUDICIAL DISTRICT AND SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING FROM EACH TREATMENT PROGRAM:

(I) NAME AND LOCATION OF THE PROGRAM, INCLUDING THE COUNTY AND JUDICIAL DISTRICT;

(II) THE REFERRING CRIMINAL AGENCY;

(III) DEMOGRAPHIC INFORMATION INCLUDING GENDER AND ETHNICITY;

(IV) LEVEL OF TREATMENT DELIVERED;

(V) ACTUAL LENGTH OF TIME IN TREATMENT FOR EACH CLIENT;

(VI) DISCHARGE STATUS AND, IF THE STATUS IS NEGATIVE, THE REASON FOR THE NEGATIVE DISCHARGE; AND

(VII) ANY SPECIAL LICENSES HELD BY THE TREATMENT PROGRAM.

~~(5.5) (a) There is hereby created in the state treasury a drug offender treatment fund that shall consist of moneys appropriated thereto. In addition, the fund may accept gifts, grants, and donations. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. Any moneys not appropriated by the general assembly shall remain in the drug offender treatment fund and shall not be transferred or revert to the general fund of the state at the end of any fiscal year. All moneys in the fund shall be subject to annual appropriation by the general assembly to the judicial department for allocation to the interagency task force on treatment for costs associated with community-based substance abuse treatment~~ ON JULY 1, 2012, THE STATE TREASURER SHALL TRANSFER ALL UNENCUMBERED MONEYS THAT REMAIN IN THE DRUG OFFENDER TREATMENT FUND TO THE CORRECTIONAL TREATMENT CASH FUND CREATED IN SUBSECTION (4) OF THIS SECTION. THIS SUBSECTION (5.5) IS REPEALED, EFFECTIVE JULY 2, 2012.

~~(b) Notwithstanding any provision of paragraph (a) of this subsection (5.5) to the contrary, on April 20, 2009, the state treasurer shall deduct three hundred fifty thousand dollars from the fund and transfer such sum to the general fund.~~

~~(c) Notwithstanding any provision of paragraph (a) of this subsection (5.5) to the contrary, on June 30, 2011, the state treasurer shall deduct six hundred seventy-two thousand seven hundred twenty-five dollars from the drug offender treatment fund and transfer such sum to the general fund.~~

**SECTION 36.** In Colorado Revised Statutes, 18-19-104, **amend** (1) and (2) and **repeal** (4) as follows:

**18-19-104. Judicial district drug offender treatment boards.**

(1) Each judicial district shall create a drug offender treatment board, WHOSE MEMBERSHIP IS KNOWLEDGEABLE ABOUT ADULT CRIMINAL AND

JUVENILE JUSTICE MATTERS, consisting of:

(a) The district attorney serving the judicial district or his or her designee;

(b) The chief public defender serving the judicial district or his or her designee;

(c) THE CHAIR OF THE LOCAL COMMUNITY CORRECTIONS BOARD OR HIS OR HER DESIGNEE;

(d) A PAROLE OFFICER WORKING IN THE JUDICIAL DISTRICT CHOSEN BY THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS OR HIS OR HER DESIGNEE;

(e) A SHERIFF THAT SERVES THE JUDICIAL DISTRICT CHOSEN BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT;

(f) A REPRESENTATIVE OF A DRUG COURT OR SIMILAR PROBLEM-SOLVING COURT IF SUCH A COURT EXISTS IN THE JUDICIAL DISTRICT CHOSEN BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT;

(g) A PERSON WITH EXPERTISE IN JUVENILE MATTERS CHOSEN BY THE CHIEF JUDGE OF THE JUDICIAL DISTRICT; and

(h) A probation officer working in the judicial district chosen by the chief judge of the judicial district.

~~(2) Each drug offender treatment board shall receive moneys from the state drug offender treatment board pursuant to section 16-11.5-102 (7) (a), C.R.S., and shall distribute those moneys to drug treatment programs based in the judicial district. No program shall receive moneys from the drug offender treatment board without a majority vote of the board. The board shall give priority to drug court funding if the jurisdiction operates a drug court AND THE DRUG COURT OPERATES WITH BEST EVIDENCE-BASED OR PROMISING PRACTICES. EACH DRUG OFFENDER TREATMENT BOARD SHALL ANNUALLY MAKE RECOMMENDATIONS TO THE CORRECTIONAL TREATMENT BOARD FOR FUNDING LOCAL ASSESSED TREATMENT NEEDS.~~

~~(4) Each judicial district's drug offender treatment board shall~~

~~submit a report to the interagency task force on treatment created in section 16-11.5-102 (4), C.R.S., and the judiciary committees of the senate and house of representatives detailing the amount and to whom the board distributed its funding in the previous year and the amount of funding received by the board from the interagency task force on treatment by January 31 of each year beginning the first year after the judicial district drug offender treatment boards receive funding.~~

**SECTION 37.** In Colorado Revised Statutes, 16-11.5-102, **repeal** (2), (3), (4), (5), (6), (7), and (8) as follows:

**16-11.5-102. Substance abuse assessment - standardized procedure.** (2) ~~The procedures for assessment, treatment, and sanctions required to be developed by subsection (1) of this section shall be implemented only to the extent moneys are available in the drug offender surcharge fund created in section 18-19-103 (4), C.R.S., on July 1, 1992.~~

(3) (a) ~~The executive directors of the department of corrections, department of public safety, department of human services, and the state court administrator shall appoint six members including the directors or designees of the division of adult parole, community corrections and youthful offender system in the department of corrections, division of criminal justice of the department of public safety, the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, youth corrections within the department of human services, and the division of probation services in the judicial department who shall cooperate to develop a plan for the allocation of moneys deposited in the drug offender surcharge fund created pursuant to section 18-19-103 (4), C.R.S., among the judicial department, the department of corrections, the division of criminal justice of the department of public safety, and the department of human services. The plan developed pursuant to this subsection (3) shall be submitted to the general assembly with the judicial department's annual budget request.~~

(b) ~~Repealed.~~

(c) (f) ~~The moneys allocated to the drug offender surcharge fund pursuant to section 18-19-103 (3.5), C.R.S., shall only be used to cover the costs associated with the treatment of substance abuse or co-occurring~~

~~disorders of adult offenders who are assessed to be in need of treatment and who are:~~

- ~~(A) On diversion;~~
- ~~(B) On probation;~~
- ~~(C) On parole;~~
- ~~(D) In community corrections; or~~
- ~~(E) In jail.~~

~~(H) The plan to allocate moneys deposited in the drug offender surcharge fund pursuant to section 18-19-103 (3.5), C.R.S., shall be developed pursuant to paragraph (a) of this subsection (3) and shall also include a representative designated by the Colorado district attorney's council, the state public defender, a representative from a statewide association representing county sheriffs, and a representative from a statewide association representing counties.~~

~~(4) There is hereby created the interagency task force on treatment that shall consist of the following members:~~

~~(a) The individuals referenced in paragraph (a) of subsection (3) of this section;~~

~~(b) Three elected district attorneys or their designees selected by the president of the Colorado district attorneys' council as follows:~~

~~(i) One from the third, sixth, tenth, twelfth, fifteenth, sixteenth, or twenty-second judicial district;~~

~~(ii) One from the fifth, seventh, ninth, fourteenth, or twenty-first judicial district;~~

~~(iii) One from the first, second, fourth, eighth, eleventh, thirteenth, seventeenth, eighteenth, nineteenth, or twentieth judicial district; and~~

~~(c) The state public defender or his or her designee.~~

~~(5) The interagency task force on treatment shall elect a chairman and vice-chairman at the first meeting. The chairman shall call the meetings of the interagency task force on treatment and set the agenda for each meeting called.~~

~~(6) The interagency task force on treatment's authority shall be limited to those duties specified in subsections (7) and (8) of this section.~~

~~(7) (a) The interagency task force on treatment shall allocate at least eighty percent of the yearly drug offender treatment fund allocation to the judicial district drug offender treatment boards created pursuant to section 18-19-104, C.R.S. Such allocation shall be based upon a formula developed by the state drug offender treatment board. The interagency task force on treatment shall develop an allocation formula for the allocation of the moneys from the drug offender treatment fund. The formula shall only be based upon a judicial district's population and the number of use and possession drug case filings in the judicial district. Each judicial district drug treatment board shall submit a plan, based upon the proposed allocation formula, to the interagency task force on treatment beginning September 1 of the first year funding is appropriated to the judicial department from the drug offender treatment fund and September 1 of each year thereafter to be included in the judicial department's annual budget request. The interagency task force on treatment shall not have the authority to reject the plan submitted from the local judicial drug treatment boards.~~

~~(b) The interagency task force on treatment may allocate up to twenty percent of the yearly drug offender treatment fund allocation to drug treatment programs that serve more than one judicial district. When allocating funds pursuant to this paragraph (b), the state drug offender treatment board is encouraged to fund and develop innovative and effective drug treatment programs.~~

~~(8) The interagency task force on treatment shall report to the judiciary committees of the house of representatives and senate on or before January 31, 2005, and January 31, 2007, regarding the anticipated savings generated by the enactment of Senate Bill 03-318, enacted at the first regular session of the sixty-fourth general assembly.~~

**SECTION 38.** In Colorado Revised Statutes, **repeal** 24-33.5-503 (1) (u).



**SECTION 39.** In Colorado Revised Statutes, 19-2-601, **amend** (6) (b) and (8); and **add** (5) (a) (I) (D) and (10) as follows:

**19-2-601. Aggravated juvenile offender.** (5) (a) (I) Upon adjudication as an aggravated juvenile offender:

(D) WHEN THE PETITION ALLEGES THE OFFENSE OF MURDER IN THE FIRST DEGREE OR MURDER IN THE SECOND DEGREE, AND THE JUVENILE IS ADJUDICATED A DELINQUENT FOR EITHER MURDER IN THE FIRST DEGREE OR MURDER IN THE SECOND DEGREE, THEN THE COURT MAY SENTENCE THE JUVENILE CONSECUTIVELY OR CONCURRENTLY FOR ANY CRIME OF VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406, C.R.S., OR AGGRAVATED JUVENILE OFFENDER PETITION ARISING FROM THAT PETITION.

(6) (b) Parole supervision of a juvenile who has been transferred to the department of corrections ~~shall be~~ IS governed by the provisions for adult felony offenders in titles 16, ~~and~~ 17, AND 18, C.R.S., as if the juvenile had been sentenced as an adult felony offender; EXCEPT THAT, IF THE JUVENILE WAS ADJUDICATED AND SENTENCED FOR MURDER IN THE FIRST DEGREE, THEN THE JUVENILE SHALL SERVE A TEN-YEAR PERIOD OF MANDATORY PAROLE AFTER COMPLETION OF HIS OR HER SENTENCE.

(8) (a) (I) When a juvenile in the custody of the department of human services pursuant to this section reaches the age of twenty years and six months, the department of human services shall file a motion with the court of commitment regarding further jurisdiction of the juvenile. Upon the filing of such a motion, the court shall notify the interested parties, APPOINT COUNSEL FOR THE JUVENILE, and set the matter for a hearing. THE COURT SHALL, AS PART OF THIS HEARING, RECONSIDER THE LENGTH OF THE REMAINING SENTENCE AND CONSIDER THE FACTORS AS SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (8) HEREIN.

(II) WHEN THE COURT NOTIFIES THE INTERESTED PARTIES, THE COURT SHALL ORDER THAT THE JUVENILE SUBMIT TO AND COOPERATE WITH A PSYCHOLOGICAL EVALUATION AND RISK ASSESSMENT BY A MENTAL HEALTH PROFESSIONAL TO DETERMINE WHETHER THE JUVENILE IS A DANGER EITHER TO HIMSELF OR HERSELF OR TO OTHERS. THE MENTAL HEALTH PROFESSIONAL SHALL PREPARE A WRITTEN REPORT AND SHALL PROVIDE A COPY OF THE REPORT TO THE COURT THAT ORDERED IT, THE PROSECUTING ATTORNEY, AND COUNSEL FOR THE JUVENILE AT LEAST FIFTEEN DAYS

BEFORE THE HEARING.

(b) At the hearing upon the motion, the court may either transfer the custody of and jurisdiction over the juvenile to the department of corrections FOR PLACEMENT IN A CORRECTIONAL FACILITY, THE YOUTHFUL OFFENDER SYSTEM, OR A COMMUNITY CORRECTIONS PROGRAM; authorize early release of the juvenile pursuant to subsection (7) of this section; PLACE THE JUVENILE ON ADULT PAROLE FOR A PERIOD OF FIVE YEARS; or order that custody and jurisdiction over the juvenile shall remain with the department of human services; except that the custody of and jurisdiction over the juvenile by the department of human services shall terminate when the juvenile reaches twenty-one years of age.

(c) IN CONSIDERING WHETHER OR NOT TO TRANSFER THE CUSTODY OF AND JURISDICTION OVER THE JUVENILE TO THE DEPARTMENT OF CORRECTIONS, THE COURT SHALL CONSIDER ALL RELEVANT FACTORS INCLUDING, BUT NOT LIMITED TO, THE COURT-ORDERED PSYCHOLOGICAL EVALUATION AND RISK ASSESSMENT, THE NATURE OF THE CRIMES COMMITTED, THE PRIOR CRIMINAL HISTORY OF THE OFFENDER, THE MATURITY OF THE OFFENDER, THE OFFENDER'S BEHAVIOR IN CUSTODY, THE OFFENDER'S PROGRESS AND PARTICIPATION IN CLASSES, PROGRAMS, AND EDUCATIONAL IMPROVEMENT, THE IMPACT OF THE CRIMES ON THE VICTIMS, THE LIKELIHOOD OF REHABILITATION, THE PLACEMENT WHERE THE OFFENDER IS MOST LIKELY TO SUCCEED IN REINTEGRATING IN THE COMMUNITY, AND THE INTEREST OF THE COMMUNITY IN THE IMPOSITION OF PUNISHMENT COMMENSURATE WITH THE GRAVITY OF THE OFFENSE.

(10) "MENTAL HEALTH PROFESSIONAL" MEANS A PERSON WHO IS EMPLOYED BY THE DEPARTMENT OF HUMAN SERVICES OR IS EMPLOYED UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES AND IS:

(a) A LICENSED PHYSICIAN WITH THE APPROPRIATE TRAINING AND EXPERTISE IN PSYCHIATRY; OR

(b) A LICENSED PSYCHOLOGIST.

**SECTION 40. Appropriation - adjustments in 2012 long bill.**

(1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of corrections for the fiscal year beginning July 1, 2012, are adjusted as follows:

(a) The cash funds appropriation for inmate programs, drug and alcohol treatment subprogram, drug offender surcharge program, is decreased by \$995,127. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(b) The cash funds appropriation for inmate programs, drug and alcohol treatment subprogram, contract services, is decreased by \$250,000. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(c) The reappropriated funds appropriation for community services, parole subprogram, contract services, is decreased by \$1,757,100. Said sum is from moneys transferred from the judicial department.

(2) For the implementation of this act, appropriations made in the annual general appropriation act to the department of human services for the fiscal year beginning July 1, 2012, are adjusted as follows:

(a) The cash funds appropriation for mental health and alcohol and drug abuse services, alcohol and drug abuse division, treatment services, treatment and detoxification contracts, is decreased by \$887,300. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(b) The cash funds appropriation for mental health and alcohol and drug abuse services, alcohol and drug abuse division, treatment services, short-term intensive residential remediation and treatment (STIRRT), is decreased by \$383,316. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(c) The reappropriated funds appropriation for mental health and alcohol and drug abuse services, co-occurring behavioral health services, substance use disorder offender services (H.B. 10-1352), is decreased by \$1,819,900. Said sum is from moneys transferred from the judicial department.

(3) For the implementation of this act, appropriations made in the annual general appropriation act to the judicial department for the fiscal year beginning July 1, 2012, are adjusted as follows:

(a) The cash funds appropriation for courts administration, central appropriations, for various centrally appropriated line items, is decreased by \$81,998. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(b) The cash funds appropriation for probation and related services, probation programs, is decreased by \$702,114. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(c) The cash funds appropriation for probation and related services, offender treatment and services, is decreased by \$1,010,006. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(d) The reappropriated funds appropriation for probation and related services, offender treatment and services, is decreased by \$7,656,200. Said sum is from general fund moneys credited to the drug offender surcharge fund pursuant to section 18-19-103 (3.5), Colorado Revised Statutes.

(e) The general fund appropriation for probation and related services, S.B. 03-318 community treatment funding, is decreased by \$2,200,000.

(f) The general fund appropriation for probation and related services, H.B. 10-1352 appropriation to drug offender surcharge fund, is decreased by \$7,656,200.

(4) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public safety for the fiscal year beginning July 1, 2012, are adjusted as follows:

(a) The cash funds appropriation for the executive director's office, administration, for various centrally appropriated line items, is decreased by \$10,793. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(b) The cash funds appropriation for the division of criminal justice, administration, DCJ administrative services, is decreased by \$84,803. Said sum is from the drug offender surcharge fund created in section 18-19-103

(4) (a), Colorado Revised Statutes.

(c) The general fund appropriation for the division of criminal justice, administration, DCJ administrative services, is decreased by \$37,964 and 0.5 FTE.

(d) The cash funds appropriation for the division of criminal justice, administration, indirect cost assessment, is decreased by \$8,401. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(e) The cash funds appropriation for the division of criminal justice, community corrections, community corrections placement, is decreased by \$994,019. Said sum is from the drug offender surcharge fund created in section 18-19-103 (4) (a), Colorado Revised Statutes.

(f) The reappropriated funds appropriation for the division of criminal justice, community corrections, treatment for substance abuse and co-occurring disorders, is decreased by \$1,568,750. Said sum is from moneys transferred from the judicial department.

**SECTION 41. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, to the department of corrections, for the fiscal year beginning July 1, 2012, the sum of \$3,002,227, or so much thereof as may be necessary, for services and activities authorized by sections 18-19-103 (5) (c) and (d), Colorado Revised Statutes. Said sum is from reappropriated funds transferred from the judicial department from the appropriations made in paragraphs (b) and (c) of subsection (3) of this section.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of human services, for the fiscal year beginning July 1, 2012, the sum of \$3,090,516, or so much thereof as may be necessary, for allocation to the mental health and alcohol and drug abuse services section for services and activities authorized by sections 18-19-103 (5) (c) and (d), Colorado Revised Statutes. Said sum is from reappropriated funds transferred from the judicial department from the appropriations made in paragraphs (b) and (c) of subsection (3) of this section.

(3) In addition to any other appropriation, there is hereby

appropriated, to the judicial department, for the fiscal year beginning July 1, 2012, the sum of \$25,120,277, or so much thereof as may be necessary, to be allocated for implementation of this act as follows:

(a) \$90,128 reappropriated funds and 1.0 FTE for courts administration, administration and technology, general courts administration, for personal services; said sum is from general fund moneys credited to the correctional treatment cash fund through the appropriation made in paragraph (d) of subsection (3) of this section;

(b) \$950 reappropriated funds for courts administration, administration and technology, general courts administration, for operating expenses; said sum is from general fund moneys credited to the correctional treatment cash fund through the appropriation made in paragraph (d) of subsection (3) of this section;

(c) \$4,703 reappropriated funds for courts administration, centrally administered programs, courthouse capital/infrastructure maintenance, for capital outlay expenses; said sum is from general fund moneys credited to the correctional treatment cash fund through the appropriation made in paragraph (d) of subsection (3) of this section;

(d) \$9,856,200 general fund for probation and related services, to be credited to the correctional treatment cash fund pursuant to sections 18-19-103 (3.5) (b) and 18-19-103 (4) (a), Colorado Revised Statutes;

(e) \$5,407,877 cash funds for probation and related services, for services and activities authorized by sections 18-19-103 (5) (c) and (d), Colorado Revised Statutes; said sum is from the correctional treatment cash fund created in section 18-19-103 (3.5) (b), Colorado Revised Statutes; and

(f) \$9,760,419 reappropriated funds for probation and related services, for services and activities authorized by sections 18-19-103 (5) (c) and (d), Colorado Revised Statutes; said sum is from general fund moneys credited to the correctional treatment cash fund through the appropriation made in paragraph (d) of subsection (3) of this section.

(4) In addition to any other appropriation, there is hereby appropriated, to the department of public safety, for the fiscal year beginning July 1, 2012, the sum of \$2,666,766, or so much thereof as may

be necessary, for allocation to the division of criminal justice for services and activities authorized by sections 18-19-103 (5) (c) and (d), Colorado Revised Statutes. Said sum shall be from reappropriated funds transferred from the judicial department from the appropriations made in paragraphs (b) and (c) of subsection (3) of this section.

**SECTION 42. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of corrections, for the fiscal year beginning July 1, 2012, the sum of \$11,840, or so much thereof as may be necessary, to be allocated for the implementation of section 19-2-601, Colorado Revised Statutes, as amended by this act for the purchase of computer center services.

(2) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2012, the sum of \$11,840, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of corrections related to the implementation of section 19-2-601, Colorado Revised Statutes as amended by this act. Said sum is from reappropriated funds received from the department of corrections out of the appropriation made in subsection (1) of this section.

**SECTION 43. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the interstate compact probation transfer cash fund created in section 18-1.3-204 (4) (b) (II) (A), Colorado Revised Statutes, not otherwise appropriated, to the judicial department, for the fiscal year beginning July 1, 2012, the sum of \$93,750, or so much thereof as may be necessary, for allocation to probation and related services for reimbursing law enforcement agencies for the costs of returning a probationer pursuant to section 18-1.3-204 (4) (b) (II) (B), Colorado Revised Statutes.

**SECTION 44. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

---

Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO