

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 16-0938.01 Michael Dohr x4347

SENATE BILL 16-102

SENATE SPONSORSHIP

Kerr, Aguilar, Guzman, Heath, Lundberg, Marble, Merrifield

HOUSE SPONSORSHIP

Moreno,

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ELIMINATION OF MANDATORY SENTENCES TO**
102 **INCARCERATION FOR CERTAIN CRIMES, AND, IN CONNECTION**
103 **THEREWITH, MAKING AND REDUCING AN APPROPRIATION.**

Bill Summary

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

Under current law, a person convicted of certain types of second degree assault and convicted of violating bail bond conditions must be sentenced to a mandatory term of incarceration. This bill removes the mandatory term of incarceration requirement in those circumstances.

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

SENATE
Amended 2nd Reading
March 8, 2016

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-3-203, **amend** (2)
3 (c) as follows:

4 **18-3-203. Assault in the second degree.** (2) (c) (I) If a defendant
5 is convicted of assault in the second degree pursuant to ~~paragraph (b),~~
6 ~~(c.5), (d), or (g)~~ PARAGRAPH (c.5) of subsection (1) of this section or
7 paragraph (b.5) of this subsection (2), except with respect to sexual
8 assault or sexual assault in the first degree as it existed prior to July 1,
9 2000, the court shall sentence the defendant in accordance with the
10 provisions of section 18-1.3-406. A defendant convicted of assault in the
11 second degree pursuant to paragraph (b.5) of this subsection (2) with
12 respect to sexual assault or sexual assault in the first degree as it existed
13 prior to July 1, 2000, shall be sentenced in accordance with section
14 18-1.3-401 (8) (e) or (8) (e.5).

15 (II) If a defendant is convicted of assault in the second degree
16 pursuant to ~~paragraph (c)~~ PARAGRAPH (b), (c), (d), OR (g), of subsection
17 (1) of this section, the court shall sentence the offender in accordance
18 with section 18-1.3-406; except that, notwithstanding the provisions of
19 section 18-1.3-406, the court is not required to sentence the defendant to
20 the department of corrections for a mandatory term of incarceration.

21 **SECTION 2.** In Colorado Revised Statutes, 18-8-212, **amend** (3)
22 as follows:

23 **18-8-212. Violation of bail bond conditions.** (3) ~~A person who~~
24 ~~fails to appear for a court proceeding with the intent to avoid prosecution~~
25 ~~or sentence or a person who is convicted of committing a misdemeanor~~
26 ~~or felony criminal offense committed while on bond shall not be eligible~~

1 ~~for probation or a suspended sentence and shall be sentenced to~~
2 ~~imprisonment of not less than one year for violation of subsection (1) of~~
3 ~~this section and not less than six months for violation of subsection (2) of~~
4 ~~this section. Any such sentence shall be served consecutively with any~~
5 ~~sentence for the offense on which the person is on bail~~ THE COURT SHALL
6 SENTENCE ANY PERSON WHO IS CONVICTED OF A MISDEMEANOR OFFENSE
7 IN VIOLATION OF SECTION 18-6-803.5, OR A FELONY OFFENSE IN VIOLATION
8 OF SECTION 18-8-704, 18-8-705, 18-8-706, 18-8-707, INVOLVING A VICTIM
9 OR WITNESS IN THE UNDERLYING OFFENSE WHILE ON BOND IN THE
10 UNDERLYING CASE TO IMPRISONMENT OF NOT LESS THAN ONE YEAR FOR
11 VIOLATION OF SUBSECTION (1) OF THIS SECTION AND NOT LESS THAN SIX
12 MONTHS FOR VIOLATION OF SUBSECTION (2) OF THIS SECTION, UNLESS THE
13 COURT MAKES FINDINGS THAT UNUSUAL OR EXTENUATING
14 CIRCUMSTANCES EXIST AND FINDS THAT A SENTENCE TO INCARCERATION
15 WOULD NOT BE IN THE INTEREST OF JUSTICE AND WOULD BE INCONSISTENT
16 WITH THE PURPOSES OF SENTENCING AS DESCRIBED IN SECTION 18-1-102.5.
17 THE COURT SHALL ORDER THE SENTENCE TO BE SERVED CONSECUTIVELY
18 WITH ANY SENTENCE FOR THE OFFENSE ON WHICH THE PERSON IS ON BAIL
19 IF THE UNDERLYING SENTENCE IS A SENTENCE TO INCARCERATION.

20 **SECTION 3. Appropriation.** For the 2016-17 state fiscal year,
21 \$65,788 is appropriated to the judicial department. This appropriation is
22 from the general fund and is based on an assumption that the department
23 will require an additional 0.9 FTE. To implement this act, the judicial
24 department may use this appropriation as follows:

25	<u>Probation and related services</u>	
26	<u>Probation programs</u>	<u>\$61,085 (0.9 FTE)</u>
27	<u>Centrally administered programs</u>	

1 Courthouse capital/infrastructure maintenance \$4,703

2 **SECTION 4. Appropriation - adjustments to 2016 long bill.** To
3 implement this act, appropriations made in the annual general
4 appropriation act for the 2016-17 state fiscal year to the department of
5 corrections for use by the external capacity subprogram are adjusted as
6 follows:

7 (a) The general fund appropriation for payments to in-state
8 private prisons is decreased by \$605,372; and

9 (b) The general fund appropriation for payments to pre-release
10 parole revocation facilities is decreased by \$116,124.

11 **SECTION 5. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.