

CHAPTER 85

CRIMINAL LAW AND PROCEDURE

SENATE BILL 16-051

BY SENATOR(S) Johnston and Lundberg, Aguilar, Baumgardner, Grantham, Guzman, Heath, Hill, Hodge, Jahn, Jones, Kefalas, Kerr, Lambert, Marble, Merrifield, Neville T., Newell, Scheffel, Scott, Steadman, Tate, Todd, Ulibarri, Woods, Cadman; also REPRESENTATIVE(S) Melton, Becker K., Court, Duran, Kagan, Kraft-Tharp, Lebsock, Lee, Lontine, Moreno, Pabon, Primavera, Rosenthal, Ryden, Salazar, Singer, Williams, Young.

AN ACT

CONCERNING INCREASING JUDICIAL DISCRETION REGARDING THE IMPOSITION OF CONSECUTIVE SENTENCES FOR VIOLENT CRIMES.

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

SECTION 1. In Colorado Revised Statutes, 18-1.3-406, **amend** (1) (a); and **add** (1) (c) as follows:

18-1.3-406. Mandatory sentences for violent crimes - definitions. (1) (a) Any person convicted of a crime of violence shall be sentenced pursuant to the provisions of section 18-1.3-401 (8) to the department of corrections for a term of incarceration of at least the midpoint in, but not more than twice the maximum of, the presumptive range provided for such offense in section 18-1.3-401 (1) (a), as modified for an extraordinary risk crime pursuant to section 18-1.3-401 (10), without suspension; except that, within ninety-one days after he or she has been placed in the custody of the department of corrections, the department shall transmit to the sentencing court a report on the evaluation and diagnosis of the violent offender, and the court, in a case which it considers to be exceptional and to involve unusual and extenuating circumstances, may thereupon modify the sentence, effective not earlier than one hundred nineteen days after his or her placement in the custody of the department. Such modification may include probation if the person is otherwise eligible therefor. Whenever a court finds that modification of a sentence is justified, the judge shall notify the state court administrator of his or her decision and shall advise said administrator of the unusual and extenuating circumstances that justified such modification. The state court administrator shall maintain a record, which shall be open to the public, summarizing all modifications of sentences and the grounds therefor for each judge of each district court in the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

state. EXCEPT AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION (1), A COURT SHALL SENTENCE a person convicted of two or more separate crimes of violence arising out of the same incident ~~shall be sentenced for such crimes~~ so that HIS OR HER sentences are served consecutively rather than concurrently.

(c) THE COURT MAY REQUIRE A DEFENDANT TO SERVE HIS OR HER SENTENCES CONSECUTIVELY RATHER THAN CONCURRENTLY IF THE DEFENDANT IS CONVICTED OF TWO OR MORE SEPARATE CRIMES OF VIOLENCE ARISING OUT OF THE SAME INCIDENT AND ONE OF SUCH CRIMES IS:

- (I) AGGRAVATED ROBBERY, AS DESCRIBED IN SECTION 18-4-302;
- (II) ASSAULT IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-203; OR
- (III) ESCAPE, AS DESCRIBED IN SECTION 18-8-208.

SECTION 2. Effective date - applicability. This act takes effect July 1, 2016, and applies to offenses committed on or after said date.

SECTION 3. 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.

Approved: April 14, 2016