

CHAPTER 181

CRIMINAL LAW AND PROCEDURE

SENATE BILL 16-102

BY SENATOR(S) Kerr, Aguilar, Guzman, Heath, Lundberg, Marble, Merrifield, Baumgardner, Hill, Jones, Kefalas, Newell, Steadman, Todd;
 also REPRESENTATIVE(S) Moreno, Arndt, Becker K., Buckner, Court, Esgar, Fields, Garnett, Kagan, Kraft-Tharp, Lebsack, Lee, Lontine, McCann, Melton, Pabon, Rosenthal, Ryden, Salazar, Williams, Young, Hullinghorst.

AN ACT

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

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

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

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

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

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

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

18-8-212. Violation of bail bond conditions. (3) ~~A person who fails to appear for a court proceeding with the intent to avoid prosecution or sentence or a person who is convicted of committing a misdemeanor or felony criminal offense committed while on bond shall not be eligible for probation or a suspended sentence and shall be sentenced to imprisonment of not less than one year for violation of subsection (1) of this section and not less than six months for violation of subsection (2) of this section. Any such sentence shall be served consecutively with any sentence for the offense on which the person is on bail.~~ THE COURT SHALL SENTENCE ANY PERSON WHO IS CONVICTED OF A MISDEMEANOR OFFENSE IN VIOLATION OF SECTION 18-6-803.5, OR A FELONY OFFENSE IN VIOLATION OF SECTION 18-8-704, 18-8-705, 18-8-706, OR 18-8-707, INVOLVING A VICTIM OR WITNESS IN THE UNDERLYING OFFENSE WHILE ON BOND IN THE UNDERLYING CASE TO IMPRISONMENT OF NOT LESS THAN ONE YEAR FOR VIOLATION OF SUBSECTION (1) OF THIS SECTION AND NOT LESS THAN SIX MONTHS FOR VIOLATION OF SUBSECTION (2) OF THIS SECTION. THE COURT SHALL ORDER THE SENTENCE TO BE SERVED CONSECUTIVELY WITH ANY SENTENCE FOR THE OFFENSE ON WHICH THE PERSON IS ON BAIL IF THE UNDERLYING SENTENCE IS A SENTENCE TO INCARCERATION.

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

- (a) \$61,085 for probation programs, which amount is based on an assumption that the department will require an additional 0.9 FTE; and
- (b) \$4,703 for courthouse capital and infrastructure maintenance.

SECTION 4. Appropriation - adjustments to 2016 long bill. To implement this act, appropriations made in the annual general appropriation act for the 2016-17 state fiscal year to the department of corrections are adjusted as follows:

- (a) The general fund appropriation for payments to in-state private prisons is decreased by \$605,372; and
- (b) The general fund appropriation for payments to pre-release parole revocation facilities is decreased by \$116,124.

SECTION 5. Effective date - applicability. This act takes effect July 1, 2016, and applies to offenses committed on or after said date.

SECTION 6. 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: May 19, 2016