

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0938.01 Michael Dohr x4347

**SENATE BILL 16-102**

**SENATE SPONSORSHIP**

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

**HOUSE SPONSORSHIP**

**Moreno,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

Judiciary  
Appropriations

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**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 3rd Reading  
March 9, 2016

SENATE  
Amended 2nd Reading  
March 8, 2016

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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, OR 18-8-707, INVOLVING A  
9 VICTIM 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. ■ THE  
13 COURT SHALL ORDER THE SENTENCE TO BE SERVED CONSECUTIVELY WITH  
14 ANY SENTENCE FOR THE OFFENSE ON WHICH THE PERSON IS ON BAIL IF THE  
15 UNDERLYING SENTENCE IS A SENTENCE TO INCARCERATION.

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

21	<u>Probation and related services</u>	
22	<u>Probation programs</u>	<u>\$61,085 (0.9 FTE)</u>
23	<u>Centrally administered programs</u>	
24	<u>Courthouse capital/infrastructure maintenance</u>	<u>\$4,703</u>

25 **SECTION 4. Appropriation - adjustments to 2016 long bill.** To  
26 implement this act, appropriations made in the annual general  
27 appropriation act for the 2016-17 state fiscal year to the department of

1 corrections for use by the external capacity subprogram are adjusted as  
2 follows:

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

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

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