

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 22-0885.01 Michael Dohr x4347

HOUSE BILL 22-1257

HOUSE SPONSORSHIP

Weissman and Soper, Garnett, Gray, Jodeh, Lindsay, Michaelson Jenet, Ricks, Snyder

SENATE SPONSORSHIP

Gonzales,

House Committees

State, Civic, Military, & Veterans Affairs
Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADOPTION OF 2022 RECOMMENDATIONS OF THE**
102 **COLORADO CRIMINAL JUVENILE JUSTICE COMMISSION**
103 **REGARDING SENTENCING PROVISIONS FOR OFFENSES, AND, IN**
104 **CONNECTION THEREWITH, MAKING 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://leg.colorado.gov>.)

Pursuant to law that will take effect March 1, 2022, it is a class 2 misdemeanor to practice the following professions without an active license, registration, or certification: Professional engineering,

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

HOUSE
3rd Reading Unamended
March 4, 2022

HOUSE
Amended 2nd Reading
March 3, 2022

architecture, audiology, dentistry, direct-entry midwifery, medicine, physician assistant, anesthesiologist assistant, professional nursing, nursing home administration, optometry, pharmacy, pharmacy technician, and respiratory therapy. The bill makes practicing those professions intentionally without a license, registration, or certification a class 6 felony.

The bill states the purposes of probation are:

- To serve as a sentencing option and a response to crime in order to moderate and deter future criminal behavior and victimization;
- To support persons in behavior change through the coordination and provision of effective and individualized services which may include, but are not limited to, educational, therapeutic, restorative, and skill-building services;
- To hold persons accountable for their behavior through supervision and interventions that promote reparation of harm to the community and victims, which reparation includes, but is not limited to, restitution to victims;
- To serve as a cost-effective option for persons appropriate for community supervision; and
- To honor the statutory and constitutional rights of victims of crime.

The bill requires a probation officer to issue a summons when a probationer has allegedly violated a condition of probation or the officer is seeking probation revocation, with some exceptions.

The bill requires the state court administrator to develop a system of structured and individualized behavior responses to guide probation officers in determining how best to respond to probation violations.

Under current law, when a parolee has a technical violation of parole, a brief period of confinement in a county jail may be imposed as a sanction. The bill allows that confinement to also be served in a department of corrections facility.

The bill specifies that for a theft that involves public benefits, the value of the benefits involved for purposes of determining the level of the offense is calculated by the difference between the value of the benefits received and the value of benefits the recipient applied for and was lawfully eligible for.

Under current law, it is illegal for someone to possess a firearm if the person was convicted of or adjudicated for a victim's right act crime that is a felony. The bill adds more felony offenses to the convictions that prohibit a person from possessing a firearm.

Under current law, it is illegal for someone to possess a firearm if the person was previously adjudicated for a victim's right act crime that is a felony offense. The bill allows a person in that situation who has

good cause for possessing a firearm to petition the court for an order determining that the crime does not apply to the person.

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

2 **SECTION 1.** In Colorado Revised Statutes, 12-20-407, **add**
3 (1)(e) as follows:

4 **12-20-407. Unauthorized practice of profession or occupation**
5 **- penalties - exclusions.** (1) (e) A PERSON COMMITS A CLASS 6 FELONY
6 AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401 IF THE
7 PERSON PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE ANY OF THE
8 FOLLOWING PROFESSIONS OR OCCUPATIONS AND INTENTIONALLY AND
9 FRAUDULENTLY REPRESENTS ONESELF AS A LICENSED, CERTIFIED, OR
10 REGISTERED PROFESSIONAL OR PRACTITIONER ISSUED PURSUANT TO A
11 PART OR ARTICLE OF THIS TITLE 12 GOVERNING THE PARTICULAR
12 PROFESSION OR OCCUPATION.

13 ■
14 (I) PROFESSIONAL ENGINEERING, AS REGULATED PURSUANT TO
15 ARTICLE 120 OF THIS TITLE 12;

16 (II) ARCHITECTURE, AS REGULATED PURSUANT TO ARTICLE 120 OF
17 THIS TITLE 12;

18 (III) AUDIOLOGY, AS REGULATED PURSUANT TO ARTICLE 210 OF
19 THIS TITLE 12;

20 (IV) DENTISTRY, AS REGULATED PURSUANT TO ARTICLE 220 OF
21 THIS TITLE 12;

22 (V) DIRECT-ENTRY MIDWIFERY, AS REGULATED PURSUANT TO
23 ARTICLE 225 OF THIS TITLE 12;

24 (VI) MEDICINE, PRACTICE AS A PHYSICIAN ASSISTANT, OR
25 PRACTICE AS AN ANESTHESIOLOGIST ASSISTANT, AS REGULATED PURSUANT

1 TO ARTICLE 240 OF THIS TITLE 12;

2 (VII) PROFESSIONAL NURSING, AS REGULATED PURSUANT TO
3 ARTICLE 255 OF THIS TITLE 12;

4 (VIII) NURSING HOME ADMINISTRATION, AS REGULATED
5 PURSUANT TO ARTICLE 265 OF THIS TITLE 12;

6 (IX) OPTOMETRY, AS REGULATED PURSUANT TO ARTICLE 275 OF
7 THIS TITLE 12;

8 (X) PHARMACY OR AS A PHARMACY TECHNICIAN, AS REGULATED
9 PURSUANT TO ARTICLE 280 OF THIS TITLE 12; OR

10 (XI) RESPIRATORY THERAPY, AS REGULATED PURSUANT TO
11 ARTICLE 300 OF THIS TITLE 12.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 16-11-201.5 as
13 follows:

14 **16-11-201.5. Purposes of probation.** (1) THE PURPOSES OF THIS
15 ARTICLE 11 WITH RESPECT TO PROBATION ARE:

16 (a) TO SERVE AS A SENTENCING OPTION AND A RESPONSE TO CRIME
17 IN ORDER TO MODERATE AND DETER FUTURE CRIMINAL BEHAVIOR AND
18 VICTIMIZATION;

19 (b) TO SUPPORT PERSONS IN BEHAVIOR CHANGE THROUGH THE
20 COORDINATION AND PROVISION OF EFFECTIVE AND INDIVIDUALIZED
21 SERVICES THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, EDUCATIONAL,
22 THERAPEUTIC, RESTORATIVE, AND SKILL-BUILDING SERVICES;

23 (c) TO HOLD PERSONS ACCOUNTABLE FOR THEIR BEHAVIOR
24 THROUGH SUPERVISION AND INTERVENTIONS THAT PROMOTE REPARATION
25 OF HARM TO THE COMMUNITY AND VICTIMS, WHICH REPARATION
26 INCLUDES, BUT IS NOT LIMITED TO, RESTITUTION TO VICTIMS;

27 (d) TO SERVE AS A COST-EFFECTIVE OPTION FOR PERSONS

1 APPROPRIATE FOR COMMUNITY SUPERVISION; AND

2 (e) TO HONOR THE STATUTORY AND CONSTITUTIONAL RIGHTS OF
3 VICTIMS OF CRIME.

4 **SECTION 3.** In Colorado Revised Statutes, 16-11-205, **amend**
5 (1), (2), and (5); and **add** (6.5) as follows:

6 **16-11-205. Arrest of probationer - revocation.** (1) A probation
7 officer may arrest any probationer when:

8 (a) ~~He~~ THE OFFICER has a warrant commanding that the
9 probationer be arrested; or

10 (b) ~~He~~ THE OFFICER has probable cause to believe that a warrant
11 for the probationer's arrest has been issued in this state or another state for
12 any criminal offense or for violation of the conditions of probation; or

13 (c) Any offense ~~under~~ PURSUANT TO the laws of this state THAT IS
14 STATUTORILY ELIGIBLE FOR ARREST has been or is being committed by the
15 probationer in his presence; or

16 (d) ~~He has probable cause to believe that a crime has been~~
17 ~~committed and the probationer has committed such crime; or~~

18 (e) ~~He~~ THE OFFICER has probable cause to believe that the
19 conditions of probation have been violated and probable cause to believe
20 that the probationer is leaving or about to leave the state, or that the
21 probationer will fail or refuse to appear before the court to answer
22 charges of violation of the conditions of probation, or that the arrest of the
23 probationer is necessary to ~~prevent physical harm to the probationer~~
24 PROTECT THE SAFETY OF THE COMMUNITY or another person or PREVENT
25 the commission of a crime. ~~or~~

26 (f) ~~The probationer, who is on probation as a result of a conviction~~
27 ~~of any felony except a class 1 felony, has been tested for the illegal or~~

1 ~~unauthorized use of a controlled substance and the result of such test is~~
2 ~~positive.~~

3 (2) ~~If a probation officer has reason to believe that the conditions~~
4 ~~of probation have been violated by any probationer, he may~~ UNLESS ANY
5 CIRCUMSTANCES AS PROVIDED IN ~~SUBSECTION (1) OR (6.5) OF THIS~~
6 ~~SECTION EXIST, WHEN A PROBATION OFFICER HAS REASON TO BELIEVE~~
7 ~~THAT THE PROBATIONER VIOLATED CONDITIONS OF PROBATION AND THAT~~
8 ~~A PETITION FOR REVOCATION IS NECESSARY AND APPROPRIATE SUBJECT TO~~
9 ~~SECTION 16-11-215,~~ THE PROBATION OFFICER SHALL issue a summons
10 requiring the probationer to appear before the court at a specified time
11 and place to answer charges of violation of the conditions of probation.
12 ~~The~~ summons, unless accompanied by a copy of a complaint, shall
13 contain a brief statement of the violation and the date and place thereof.
14 Failure of the probationer to appear before the court as required by the
15 summons shall be deemed a violation of the conditions of probation.

16 (5) A complaint alleging the violation of a condition of probation
17 may be filed either by the probation officer pursuant to subsection (4) of
18 this section or by the district attorney. Such complaint ~~shall~~ MUST contain
19 the name of the probationer, ~~shall~~ MUST identify the violation charged and
20 the condition of probation alleged to have been violated, including the
21 date and approximate location thereof, MUST INCLUDE A SUMMARY OF THE
22 VIOLATION BEHAVIOR HISTORY AND ANY BEHAVIORAL RESPONSES APPLIED
23 CONSISTENT WITH THE STRUCTURED AND INDIVIDUALIZED BEHAVIORAL
24 RESPONSES DEVELOPED PURSUANT TO SECTION 16-11-215 and ~~shall~~ MUST
25 be signed by the probation officer or the district attorney. A copy thereof
26 ~~shall~~ MUST be given to the probationer a reasonable length of time before
27 ~~he~~ THE PROBATIONER appears before the court.

1 (6.5) UNLESS THERE IS REASON TO BELIEVE THAT A PROBATIONER
2 WOULD NOT APPEAR, WOULD INTERFERE WITH THE CRIMINAL JUSTICE
3 PROCESS, OR POSES SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS, A
4 PROBATION OFFICER SHALL ISSUE A SUMMONS RATHER THAN REQUEST A
5 WARRANT WHEN FILING A PETITION FOR REVOCATION.

6 **SECTION 4.** In Colorado Revised Statutes, 16-11-209, **repeal** (2)
7 and (3) as follows:

8 **16-11-209. Duties of probation officers.** ~~(2) Any probationer, on~~
9 ~~probation as a result of a conviction, who is under the supervision of a~~
10 ~~probation officer pursuant to this part 2 and who is initially tested for the~~
11 ~~illegal or unauthorized use of a controlled substance and the result of such~~
12 ~~test is positive shall be subject to any or all of the following actions:~~

- 13 ~~(a) An immediate warrantless arrest;~~
- 14 ~~(b) An immediate increase in the level of supervision;~~
- 15 ~~(c) Random screenings for the detection of the illegal or~~
16 ~~unauthorized use of a controlled substance, which use may serve as the~~
17 ~~basis for additional punishment or any other community placement;~~
- 18 ~~(d) Referral to a substance use disorder treatment program.~~

19 ~~(3) If any probationer described in subsection (2) of this section~~
20 ~~is subjected to a second or subsequent test for the illegal or unauthorized~~
21 ~~use of a controlled substance and the result of such test is positive, the~~
22 ~~probation officer shall take one or more of the following actions:~~

- 23 ~~(a) Make an immediate warrantless arrest;~~
- 24 ~~(b) Seek a probation revocation in accordance with sections~~
25 ~~16-11-205 and 16-11-206;~~
- 26 ~~(c) Immediately increase the level of supervision;~~
- 27 ~~(d) Increase the number of drug screenings for the illegal or~~

1 ~~unauthorized use of controlled substances;~~

2 ~~(e) Refer the probationer to a substance use disorder treatment~~
3 ~~program.~~

4 **SECTION 5.** In Colorado Revised Statutes, **add** 16-11-215 as
5 follows:

6 **16-11-215. Structured and individualized behavioral responses**

7 **- repeal.** (1) BEFORE JULY 1, 2023, THE STATE COURT ADMINISTRATOR
8 SHALL DEVELOP A SYSTEM OF STRUCTURED AND INDIVIDUALIZED
9 BEHAVIORAL RESPONSES, INCLUDING INCENTIVES AND SANCTIONS, TO
10 GUIDE PROBATION OFFICERS IN DETERMINING HOW BEST TO MOTIVATE
11 POSITIVE BEHAVIOR CHANGE AND THE APPROPRIATE RESPONSE TO A
12 VIOLATION OF TERMS AND CONDITIONS OF PROBATION.

13 (2) A SYSTEM OF STRUCTURED AND INDIVIDUALIZED RESPONSES
14 MUST INCLUDE AN ACCOUNTABILITY-BASED SERIES OF BEHAVIORAL
15 RESPONSES, INTERMEDIATE SANCTIONS, INCENTIVES, AND SERVICES
16 DESIGNED TO RESPOND TO A PROBATIONER'S VIOLATION OF PROBATION
17 QUICKLY, FAIRLY, CONSISTENTLY, AND PROPORTIONALLY. THE SYSTEM OF
18 STRUCTURED AND INDIVIDUALIZED RESPONSES MUST ALSO BE DESIGNED
19 TO MOTIVATE POSITIVE BEHAVIOR CHANGE, SUCCESSFUL COMPLETION OF
20 PROBATION, AND A PROBATIONER'S INDIVIDUAL BEHAVIORAL OR
21 TREATMENT GOALS.

22 (3) PROBATION DEPARTMENTS SHALL USE THE SYSTEM OF
23 STRUCTURED AND INDIVIDUALIZED BEHAVIORAL RESPONSES DEVELOPED
24 PURSUANT TO THIS SUBSECTION (3) OR DEVELOP AND USE AN EQUIVALENT
25 AND LOCALLY DEVELOPED SYSTEM THAT IS ALIGNED TO BEST PRACTICES.

26 (4) (a) THE STATE COURT ADMINISTRATOR SHALL REPORT ON THE
27 SYSTEM OF STRUCTURED AND INDIVIDUALIZED RESPONSES DEVELOPED

1 PURSUANT TO THIS SECTION DURING THE JUDICIAL DEPARTMENT'S ANNUAL
2 PRESENTATION HELD PURSUANT TO SECTION 2-7-203 DURING THE 2024
3 LEGISLATIVE SESSION.

4 (b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 2024.

5 SECTION 6. In Colorado Revised Statutes, amend 16-11.5-101
6 as follows:

7 16-11.5-101. Legislative declaration. The general assembly
8 hereby declares that substance abuse, specifically the abuse of alcohol and
9 controlled substances, is a major problem in the criminal justice system
10 of the state of Colorado and in the entire nation. Substance abuse is a
11 significant factor in the commission of crimes, and it is a significant
12 factor in impeding the rehabilitation of persons convicted of crimes which
13 results in an increased rate of recidivism. Therefore, the general assembly
14 hereby resolves to curtail the disastrous effects of substance abuse in the
15 criminal justice system by providing for consistency in the response to
16 substance abuse throughout the criminal justice system and to improve
17 and standardize substance abuse treatment for ~~offenders~~ PEOPLE at each
18 stage of the criminal justice system and to provide ~~punitive measures~~ A
19 RANGE OF INDIVIDUALIZED BEHAVIORAL RESPONSES for ~~offenders who~~
20 ~~refuse to cooperate with and~~ PEOPLE WHO DO NOT respond SUCCESSFULLY
21 to substance abuse treatment while ~~such offenders~~ THE PEOPLE are
22 involved with the criminal justice system.

23 SECTION 7. In Colorado Revised Statutes, 16-11.5-105, amend
24 (2) and (3) as follows:

25 16-11.5-105. Departments shall develop testing programs and
26 behavioral response systems. (2) Any offender who tests positive for
27 the use of alcohol or controlled substances subsequent to the initial test

1 required by section 18-1.3-209 ~~C.R.S.~~, shall be subjected to a **punitive**
2 **sanction** SYSTEM OF STRUCTURED AND INDIVIDUALIZED BEHAVIORAL
3 RESPONSES. The judicial department, the department of corrections, the
4 state board of parole, and the division of criminal justice of the
5 department of public safety shall cooperate to develop and make public
6 a range of ~~punitive sanctions~~ STRUCTURED AND INDIVIDUALIZED
7 BEHAVIORAL RESPONSES for those ~~offenders~~ PEOPLE under the jurisdiction
8 of each agency ~~which~~ THAT are appropriate to the ~~offenders~~ PEOPLE
9 supervised by each particular agency. ~~Such punitive sanctions shall be~~
10 ~~formulated in such a way as to promote fairness and consistency in the~~
11 ~~treatment of offenders and may include, but shall not be limited to,~~
12 ~~increases in the level of an offender's supervision, increases in the use of~~
13 ~~electronic monitoring of an offender, loss of earned time granted pursuant~~
14 ~~to section 17-22.5-405, C.R.S., and referral of the offender to the court or~~
15 ~~the state board of parole for resentencing or revocation of probation or~~
16 ~~parole.~~ A SYSTEM OF STRUCTURED AND INDIVIDUALIZED BEHAVIORAL
17 RESPONSES MUST INCLUDE AN ACCOUNTABILITY-BASED SERIES OF
18 BEHAVIORAL RESPONSES, SANCTIONS, INCENTIVES, AND SERVICES
19 DESIGNED TO RESPOND TO AN OFFENDER'S VIOLATION BEHAVIOR QUICKLY,
20 FAIRLY, CONSISTENTLY, AND PROPORTIONALLY. THE SYSTEM MUST ALSO
21 BE DESIGNED TO MOTIVATE POSITIVE BEHAVIOR CHANGE, SUCCESSFUL
22 COMPLETION OF SUPERVISION, AND AN OFFENDER'S INDIVIDUALIZED
23 TREATMENT OR BEHAVIOR CHANGE GOALS USING RESEARCH-INFORMED
24 STRATEGIES DESIGNED TO REDUCE THE LIKELIHOOD OF CONTINUED
25 INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM. It is the intent of the
26 general assembly that any offender's test ~~which~~ THAT is positive for the
27 use of controlled substances or alcohol ~~shall result in an intensified level~~

1 of testing, treatment, supervision, or other sanctions designed to control
2 abuse of substances for such offender IS ADDRESSED WITH A RANGE OF
3 BEHAVIORAL RESPONSES PRIOR TO CONSIDERATION FOR REVOCATION OR
4 RESENTENCING BY THE COURT OR PRIOR TO CONSIDERATION OF
5 REVOCATION BY THE STATE BOARD OF PAROLE.

6 (3) The judicial department, the department of corrections, the
7 state board of parole, and the division of criminal justice of the
8 department of public safety shall cooperate to develop AND IMPLEMENT
9 a range of incentives for offenders under the jurisdiction of each
10 particular agency to ~~discontinue abuse of~~ MOTIVATE RECOVERY FROM A
11 SUBSTANCE USE DISORDER AND ABSTINENCE FROM HARMFUL USE OF
12 alcohol or controlled substances.

13 **SECTION 8.** In Colorado Revised Statutes, 17-2-103, **amend**
14 (1.5)(d), (1.5)(e), and (1.5)(f) as follows:

15 **17-2-103. Arrest of parolee - revocation proceedings.**

16 (1.5) (d) If a parolee has a technical violation, the parolee's community
17 parole officer, with the approval of the director of the division of adult
18 parole or the director's designee, may impose a brief term of confinement,
19 ~~in the county jail~~, not to exceed fourteen consecutive days, as an
20 intermediate sanction.

21 (e) A parolee's community parole officer must notify the parolee
22 when a brief term of ~~incarceration in jail~~ CONFINEMENT may be imposed
23 as an intermediate sanction against the parolee.

24 (f) CONFINEMENT AS AN INTERMEDIATE SANCTION MAY BE
25 PROVIDED IN ANY FACILITY OPERATED OR APPROVED BY THE DEPARTMENT
26 OF CORRECTIONS OR IN A COUNTY JAIL. The division of adult parole is
27 responsible for reimbursing county jails for beds used as an intermediate

1 sanction. The sheriff of each county has the authority and discretion to
2 determine the number of jail beds, if any, that are available to the
3 department of corrections in their respective facilities for the purpose of
4 imposing an intermediate sanction. If jail beds are unavailable in the local
5 community of the facility in which the parolee is being supervised, the
6 division of adult parole is authorized to utilize ANY FACILITY OPERATED
7 OR APPROVED BY THE DEPARTMENT OF CORRECTIONS OR other available
8 county jail beds if transportation to and from the jail is provided to the
9 parolee.

10 **SECTION 9.** In Colorado Revised Statutes, 18-1.3-102, **amend**
11 (2) as follows:

12 **18-1.3-102. Deferred sentencing of defendant.** (2) Prior to entry
13 of a plea of guilty to be followed by deferred judgment and sentence, the
14 district attorney, in the course of plea discussion as provided in sections
15 16-7-301 and 16-7-302 ~~C.R.S.~~, is authorized to enter into a written
16 stipulation, to be signed by the defendant, the defendant's attorney of
17 record, and the district attorney, under which the defendant is obligated
18 to adhere to such stipulation. The conditions imposed in the stipulation
19 ~~shall be~~ AND THE RESPONSES TO VIOLATION BEHAVIOR ARE similar ~~in all~~
20 ~~respects to conditions permitted as part of~~ probation. A person convicted
21 of a crime, the underlying factual basis of which included an act of
22 domestic violence, as defined in section 18-6-800.3 (1), shall stipulate to
23 the conditions specified in section 18-1.3-204 (2)(b). In addition, the
24 stipulation may require the defendant to perform community or charitable
25 work service projects or make donations thereto. Upon full compliance
26 with such conditions by the defendant, the plea of guilty previously
27 entered shall be withdrawn and the charge upon which the judgment and

1 sentence of the court was deferred shall be dismissed with prejudice. The
2 stipulation shall specifically provide that, upon a breach by the defendant
3 of any condition regulating the conduct of the defendant, the court shall
4 enter judgment and impose sentence upon the guilty plea; except that, if
5 the offense is a violation of article 18 of this ~~title~~ TITLE 18, the court may
6 accept an admission or find a violation of the stipulation without entering
7 judgment and imposing sentence if the court first makes findings of fact
8 on the record stating the entry of judgment and sentencing would not be
9 consistent with the purposes of sentencing, that the defendant would be
10 better served by continuing the deferred judgment period, and that public
11 safety would not be jeopardized by the continuation of the deferred
12 judgment. If the court makes those findings and continues the deferred
13 judgment over the objection of the prosecution, the court shall also
14 impose additional and immediate sanctions upon the defendant to address
15 the violation, to include, but not be limited to, the imposition of further
16 terms and conditions that will enhance the likelihood of the defendant's
17 success, respond to the defendant's noncompliance, and promote further
18 individual accountability, including extending the time period of the
19 deferred judgment for up to two additional years or incarceration in the
20 county jail for a period not to exceed ninety days consistent with the
21 provisions of section 18-1.3-202 (1), or both. When, as a condition of the
22 deferred sentence, the court orders the defendant to make restitution,
23 evidence of failure to pay the restitution shall constitute prima facie
24 evidence of a violation. Whether a breach of condition has occurred shall
25 be determined by the court without a jury upon application of the district
26 attorney or a probation officer and upon notice of hearing thereon of not
27 less than seven days to the defendant or the defendant's attorney of

1 record. Application for entry of judgment and imposition of sentence may
2 be made by the district attorney or a probation officer at any time within
3 the term of the deferred judgment or within thirty-five days thereafter.
4 The burden of proof at the hearing shall be by a preponderance of the
5 evidence, and the procedural safeguards required in a revocation of
6 probation hearing shall apply.

7 **SECTION 10.** In Colorado Revised Statutes, 18-4-401, **add** (11)
8 as follows:

9 **18-4-401. Theft - repeal.** (11) (a) IF THE ITEM OF VALUE
10 INVOLVED IS A PUBLIC BENEFIT, THEN FOR PURPOSES OF DETERMINING THE
11 OFFENSE LEVEL FOR SUBSECTION (2) OF THIS SECTION, THE VALUE IS THE
12 DIFFERENCE BETWEEN THE VALUE OF THE PUBLIC BENEFIT RECEIVED AND
13 THE VALUE OF THE PUBLIC BENEFIT FOR WHICH THE RECIPIENT WAS
14 ELIGIBLE.

15 (b) AS USED IN THIS SUBSECTION (11), "PUBLIC BENEFITS" MEANS
16 SERVICES OR AID, OR BOTH, INCLUDING FOOD, CASH, AND MEDICAL
17 ASSISTANCE, PROVIDED THROUGH AN APPROPRIATION OF FEDERAL, STATE,
18 OR LOCAL GOVERNMENT MONEY TO INDIVIDUALS OR HOUSEHOLDS THAT,
19 BECAUSE OF THEIR ECONOMIC CIRCUMSTANCES OR SOCIAL CONDITION, ARE
20 IN NEED OF AND MAY BENEFIT FROM SUCH SERVICES OR AID.

21 **SECTION 11.** In Colorado Revised Statutes, 18-12-108, **amend**
22 **as they will become effective March 1, 2022,** (1) and (3); and **add** (7)
23 as follows:

24 **18-12-108. Possession of weapons by previous offenders.** (1) A
25 person commits the crime of possession of a weapon by a previous
26 offender if the person knowingly possesses, uses, or carries upon his or
27 her person a firearm as defined in section 18-1-901 (3)(h) or any other

1 weapon that is subject to the provisions of this article 12 subsequent to
2 the person's conviction for a felony crime as defined in section 24-4.1-302
3 (1) OR LISTED IN SUBSECTION (7) OF THIS SECTION, or subsequent to the
4 person's conviction for attempt or conspiracy to commit a crime as
5 defined in section 24-4.1-302 (1) that is a felony, ~~under~~ PURSUANT TO
6 Colorado or any other state's law or ~~under~~ PURSUANT TO federal law.

7 (3) (a) A person commits the crime of possession of a weapon by
8 a previous offender if the person knowingly possesses, uses, or carries
9 upon his or her person a firearm as defined in section 18-1-901 (3)(h) or
10 any other weapon that is subject to the provisions of this article 12
11 subsequent to the person's adjudication for an act which, if committed by
12 an adult, would constitute a felony crime as defined in section 24-4.1-302
13 (1) OR LISTED IN SUBSECTION (7) OF THIS SECTION, or subsequent to the
14 person's adjudication for attempt or conspiracy to commit a crime as
15 defined in section 24-4.1-302 (1) that is a felony, ~~under~~ PURSUANT TO
16 Colorado or any other state's law or ~~under~~ PURSUANT TO federal law in the
17 previous ten years from the completion of the person's sentence for the
18 adjudication of a felony crime as defined in section 24-4.1-302 (1), or
19 subsequent to the person's adjudication for attempt or conspiracy to
20 commit a crime as defined in section 24-4.1-302 (1) that is a felony, ~~under~~
21 PURSUANT TO Colorado or any other state's law or ~~under~~ PURSUANT TO
22 federal law in the previous ten years.

23 (b) IF A PERSON COMPLETES A SENTENCE FOR THE ADJUDICATION
24 OF A FELONY CRIME AS DEFINED IN SECTION 24-4.1-302 (1) OR LISTED IN
25 SUBSECTION (7) OF THIS SECTION, OR SUBSEQUENT TO THE PERSON'S
26 ADJUDICATION FOR ATTEMPT OR CONSPIRACY TO COMMIT A CRIME AS
27 DEFINED IN SECTION 24-4.1-302 (1) OR LISTED IN SUBSECTION (7) OF THIS

1 SECTION THAT IS A FELONY PURSUANT TO COLORADO OR ANY OTHER
2 STATE'S LAW OR UNDER FEDERAL LAW, AND THE PERSON HAS GOOD CAUSE
3 FOR POSSESSING, USING, OR CARRYING A FIREARM AS DEFINED IN SECTION
4 18-1-901 (3)(h) OR ANY OTHER WEAPON THAT IS SUBJECT TO THIS ARTICLE
5 12, THE PERSON MAY PETITION THE COURT FOR AN ORDER DETERMINING
6 THAT SUBSECTION (3)(a) OF THIS SECTION DOES NOT APPLY TO THE PERSON
7 IF THE PERSON OTHERWISE LEGALLY POSSESSES, USES, OR CARRIES UPON
8 HIS OR HER PERSON A FIREARM AS DEFINED IN SECTION 18-1-901 (3)(h) OR
9 ANY OTHER WEAPON THAT IS SUBJECT TO THIS ARTICLE 12. A COURT
10 SHALL ENTER AN ORDER DETERMINING THAT SUBSECTION (3)(a) OF THIS
11 SECTION DOES NOT APPLY TO THE PERSON IF THE COURT FINDS, UPON
12 REQUEST OF THE PERSON AND BY A PREPONDERANCE OF THE EVIDENCE,
13 THERE IS GOOD CAUSE FOR THE PERSON TO POSSESS, USE, OR CARRY A
14 FIREARM AS DEFINED IN SECTION 18-1-901 (3)(h) OR ANY OTHER WEAPON
15 THAT IS SUBJECT TO THIS ARTICLE 12.

16 (7) IN ADDITION TO A CONVICTION FOR FELONY CRIME AS DEFINED
17 IN SECTION 24-4.1-302 (1), A FELONY CONVICTION OR ADJUDICATION FOR
18 ONE OF THE FOLLOWING FELONIES PROHIBITS A PERSON FROM POSSESSING,
19 USING, OR CARRYING UPON HIS OR HER PERSON A FIREARM AS DEFINED IN
20 SECTION 18-1-901 (3)(h) OR ANY OTHER WEAPON THAT IS SUBJECT TO THIS
21 ARTICLE 12 PURSUANT TO SUBSECTION (1) OR (3) OF THIS SECTION:

22 (a) AN OFFENSE SUBJECT TO SENTENCING PURSUANT TO SECTION
23 18-1.3-1004;

24 (b) FIRST DEGREE MURDER OF A PEACE OFFICER, FIREFIGHTER, OR
25 EMERGENCY MEDICAL SERVICE PROVIDER IN VIOLATION OF SECTION
26 18-3-107;

27 (c) CRIMINAL EXTORTION IN VIOLATION OF SECTION 18-3-207;

- 1 (d) FALSE IMPRISONMENT IN VIOLATION OF SECTION 18-3-303;
- 2 (e) ENTICEMENT OF A CHILD IN VIOLATION OF SECTION 18-3-305;
- 3 (f) INTERNET LURING OF A CHILD IN VIOLATION OF SECTION
- 4 18-3-306;
- 5 (g) INTERNET SEXUAL EXPLOITATION OF A CHILD IN VIOLATION OF
- 6 SECTION 18-3-405.4;
- 7 (h) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER IN
- 8 VIOLATION OF SECTION 18-3-405.7;
- 9 (i) UNLAWFUL TERMINATION OF A PREGNANCY IN THE FIRST
- 10 DEGREE IN VIOLATION OF SECTION 18-3.5-103;
- 11 (j) UNLAWFUL TERMINATION OF A PREGNANCY IN THE SECOND
- 12 DEGREE IN VIOLATION OF SECTION 18-3.5-104;
- 13 (k) FIRST DEGREE ARSON IN VIOLATION OF SECTION 18-4-102;
- 14 (l) SECOND DEGREE ARSON IN VIOLATION OF SECTION 18-4-103;
- 15 (m) THIRD DEGREE ARSON IN VIOLATION OF SECTION 18-4-104;
- 16 (n) FOURTH DEGREE ARSON IN VIOLATION OF SECTION 18-4-105;
- 17 (o) HABITUAL CHILD ABUSE IN VIOLATION OF SECTION 18-6-401.2;
- 18 (p) CONTRIBUTING TO THE DELINQUENCY OF A MINOR IN
- 19 VIOLATION OF SECTION 18-6-701;
- 20 (q) PANDERING IN VIOLATION OF SECTION 18-7-203;
- 21 (r) PIMPING IN VIOLATION OF SECTION 18-7-206;
- 22 (s) PANDERING OF A CHILD IN VIOLATION OF SECTION 18-7-403;
- 23 (t) PROCUREMENT OF A CHILD IN VIOLATION OF SECTION
- 24 18-7-403.5;
- 25 (u) KEEPING A PLACE OF CHILD PROSTITUTION IN VIOLATION OF
- 26 SECTION 18-7-404;
- 27 (v) IMPERSONATING A PEACE OFFICER IN VIOLATION OF SECTION

- 1 18-8-112;
- 2 (w) DISARMING A PEACE OFFICER IN VIOLATION OF SECTION
- 3 18-8-116;
- 4 (x) AIDING ESCAPE FROM AN INSTITUTION FOR THE CARE AND
- 5 TREATMENT OF PERSONS WITH BEHAVIORAL OR MENTAL HEALTH
- 6 DISORDERS IN VIOLATION OF SECTION 18-8-201.1;
- 7 (y) ASSAULT DURING ESCAPE IN VIOLATION OF SECTION 18-8-206;
- 8 (z) HOLDING HOSTAGES IN VIOLATION OF SECTION 18-8-207;
- 9 (aa) ESCAPE IN VIOLATION OF SECTION 18-8-208;
- 10 (bb) ATTEMPT TO ESCAPE IN VIOLATION OF SECTION 18-8-208.1;
- 11 (cc) PARTICIPATION IN A RIOT IN DETENTION FACILITIES IN
- 12 VIOLATION OF SECTION 18-8-211;
- 13 (dd) INTIMIDATING A JUROR IN VIOLATION OF SECTION 18-8-608;
- 14 (ee) INCITING A RIOT IN VIOLATION OF SECTION 18-9-102;
- 15 (ff) ARMING A RIOTER IN VIOLATION OF SECTION 18-9-103;
- 16 (gg) ENGAGING IN A RIOT IN VIOLATION OF SECTION 18-9-104;
- 17 (hh) VEHICULAR ELUDING IN VIOLATION OF SECTION 18-9-116.5;
- 18 (ii) FIREARMS, EXPLOSIVES, OR INCENDIARY DEVICES IN FACILITIES
- 19 OF PUBLIC TRANSPORTATION IN VIOLATION OF SECTION 18-9-118;
- 20 (jj) FAILURE OR REFUSAL TO LEAVE PREMISES OR PROPERTY UPON
- 21 REQUEST OF A PEACE OFFICER IN VIOLATION OF SECTION 18-9-119;
- 22 (kk) TERRORIST TRAINING ACTIVITIES IN VIOLATION OF SECTION
- 23 18-9-120;
- 24 (ll) AGGRAVATED CRUELTY TO ANIMALS IN VIOLATION OF SECTION
- 25 18-9-202;
- 26 (mm) TREASON IN VIOLATION OF SECTION 18-11-101;
- 27 (nn) INSURRECTION IN VIOLATION OF SECTION 18-11-102;

1 (oo) ADVOCATING THE OVERTHROW OF THE GOVERNMENT IN
2 VIOLATION OF SECTION 18-11-201;

3 (pp) INCITING DESTRUCTION OF LIFE OR PROPERTY IN VIOLATION
4 OF SECTION 18-11-202;

5 (qq) MEMBERSHIP IN ANARCHIST AND SEDITIOUS ASSOCIATIONS IN
6 VIOLATION OF SECTION 18-11-203;

7 (rr) POSSESSING A DANGEROUS OR ILLEGAL WEAPON IN VIOLATION
8 OF SECTION 18-12-102;

9 (ss) UNLAWFULLY CARRYING A WEAPON IN VIOLATION OF SECTION
10 18-12-105.5;

11 (tt) USE OF A STUN GUN IN VIOLATION OF SECTION 18-12-106.5;

12 (uu) ILLEGAL DISCHARGE OF A FIREARM IN VIOLATION OF SECTION
13 18-12-107.5;

14 (vv) POSSESSION OF A WEAPON BY A PREVIOUS OFFENDER IN
15 VIOLATION OF SECTION 18-12-108 IF COMMITTED ON OR AFTER MARCH 1,
16 2022;

17 (ww) POSSESSION OF A HANDGUN BY A JUVENILE IN VIOLATION OF
18 SECTION 18-12-108.5;

19 (xx) UNLAWFULLY PROVIDING OR PERMITTING A JUVENILE TO
20 POSSESS A HANDGUN IN VIOLATION OF SECTION 18-12-108.7;

21 (yy) POSSESSION, USE, OR REMOVAL OF EXPLOSIVES OR
22 INCENDIARY DEVICES IN VIOLATION OF SECTION 18-12-109;

23 (zz) UNLAWFUL PURCHASE OF A FIREARM IN VIOLATION OF
24 SECTION 18-12-111;

25 (aaa) POSSESSING A LARGE-CAPACITY MAGAZINE DURING THE
26 COMMISSION OF A CRIME OF VIOLENCE IN VIOLATION OF SECTION
27 18-12-302 (1)(c);

- 1 (bbb) DUELING IN VIOLATION OF SECTION 18-13-104;
- 2 (ccc) INTENTIONALLY SETTING A WILDFIRE IN VIOLATION OF
- 3 SECTION 18-13-109.5;
- 4 (ddd) UNLAWFUL ADMINISTRATION OF KETAMINE IN VIOLATION OF
- 5 SECTION 18-13-123;
- 6 (eee) SMUGGLING OF A HUMAN IN VIOLATION OF SECTION
- 7 18-13-128;
- 8 (fff) ORGANIZED CRIME IN VIOLATION OF SECTION 18-17-104;
- 9 (ggg) A SPECIAL OFFENDER IN VIOLATION OF SECTION 18-18-407
- 10 (1)(d)(II); AND
- 11 (hhh) A CRIMINAL ATTEMPT, COMPLICITY, OR CONSPIRACY TO
- 12 COMMIT ANY OF THE OFFENSES LISTED IN THIS SUBSECTION (7).

13 **SECTION 12. Appropriation.** For the 2022-23 state fiscal year,
14 \$53,390 is appropriated to the judicial department for use by the
15 probation and related services division. This appropriation is from the
16 general fund and is based on an assumption that the department will
17 require an additional 0.7 FTE. To implement this act, the division may
18 use this appropriation for probation programs.

19 **SECTION 13. Effective date - applicability.** (1) This act takes
20 effect upon passage; except that sections 3 and 4 of this act take effect
21 July 1, 2023.

22 (2) Sections 1, 10, and 11 of this act apply to offenses committed
23 on or after the effective date of this act.

24 **SECTION 14. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.