

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0094.01 Michael Dohr x4347

SENATE BILL 13-250

SENATE SPONSORSHIP

Steadman and King, Aguilar, Guzman, Newell, Ulibarri

HOUSE SPONSORSHIP

Levy,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING CHANGES TO SENTENCING OF PERSONS CONVICTED OF
102 DRUG CRIMES.

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/billsummaries>.)

Section 1. The bill creates a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence.

Section 2. For level 4 drug felonies, the bill creates an exhaustion

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.

of remedies requirement prior to the court sentencing the defendant to prison.

Section 3. If an offender who is convicted of a level 4 drug felony is terminated from a community corrections sentence, the court shall hold a resentencing hearing or make written findings regarding the sentence.

Sections 4 and 5. The bill creates new felony and misdemeanor drug sentencing grids.

Sections 6 and 7. The bill amends the drug sentencing article short title and legislative declaration.

Sections 8 through 30. The bill assigns each of the drug crimes a new drug penalty based on the new felony and misdemeanor drug sentencing grids.

Section 31. The bill prohibits a plea agreement that requires the defendant to waive his or her right to petition to have the conviction record sealed.

Section 32. When a defendant is sentenced to probation for a drug misdemeanor, the court may impose residential drug treatment as a condition of probation.

Section 33. The bill amends the intensive supervision probation program to allow defendants convicted of a misdemeanor to participate if they are assessed as higher risk.

Section 34. The bill adds all drug felonies to the habitual sentencing schemes.

Sections 35 through 54. The bill makes conforming amendments.

Section 55. The bill authorizes the statewide organization representing district attorneys the ability to receive, manage, and expend state funds in the manner prescribed by the general assembly on behalf of the district attorneys who are members of the organization.

Section 56. Under current law, drug offenders convicted after July 1, 2011, have the opportunity to have their conviction sealed. The bill conforms those provisions to the new drug offense classifications.

Section 57. The bill requires the division of criminal justice in the department of public safety to collect data on drug cases and issue a report by December 31, 2016.

Sections 58 through 62. The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-1.3-103.5 as
3 follows:

4 **18-1.3-103.5. Felony convictions - vacate and enter conviction**
5 **on misdemeanor after successful completion.** (1) IN ORDER TO EXPAND

1 OPPORTUNITIES FOR OFFENDERS TO AVOID A DRUG FELONY CONVICTION,
2 TO REDUCE THE SIGNIFICANT NEGATIVE CONSEQUENCES OF THAT FELONY
3 CONVICTION, AND TO PROVIDE POSITIVE REINFORCEMENT FOR DRUG
4 OFFENDERS WHO WORK TO SUCCESSFULLY COMPLETE ANY
5 COMMUNITY-BASED SENTENCE IMPOSED BY THE COURT, THE LEGISLATURE
6 HEREBY CREATES AN ADDITIONAL OPPORTUNITY FOR THOSE DRUG
7 OFFENDERS WHO MAY NOT OTHERWISE HAVE BEEN ELIGIBLE FOR OR
8 SUCCESSFUL IN OTHER STATUTORILY CREATED PROGRAMS THAT ALLOW
9 THE DRUG OFFENDER TO AVOID A FELONY CONVICTION, SUCH AS
10 DIVERSION OR DEFERRED JUDGMENT.

11 (2) (a) IN A CASE IN WHICH THE DEFENDANT ENTERS A PLEA OF
12 GUILTY OR IS FOUND GUILTY BY THE COURT OR A JURY FOR A CRIME LISTED
13 IN SUBSECTION (3) OF THIS SECTION, THE COURT SHALL ORDER, UPON
14 SUCCESSFUL COMPLETION OF ANY COMMUNITY-BASED SENTENCE TO
15 PROBATION OR TO A COMMUNITY CORRECTIONS PROGRAM, THE FELONY
16 CONVICTION VACATED AND SHALL ENTER A CONVICTION FOR A LEVEL 1
17 MISDEMEANOR DRUG OFFENSE OF POSSESSION OF A CONTROLLED
18 SUBSTANCE PURSUANT TO SECTION 18-18-404.

19 (b) WHETHER A SENTENCE IS SUCCESSFULLY COMPLETED SHALL BE
20 DETERMINED BY THE COURT WITHOUT A JURY WITH NOTICE TO THE
21 DISTRICT ATTORNEY AND THE DEFENDANT OR THE DEFENDANT'S
22 ATTORNEY OF RECORD. A COMMUNITY-BASED SENTENCE IS NOT
23 SUCCESSFULLY COMPLETED IF THE DEFENDANT HAS NOT SUCCESSFULLY
24 COMPLETED THE TREATMENT AS ORDERED BY THE COURT AND
25 DETERMINED APPROPRIATE TO ADDRESS THE DEFENDANT'S TREATMENT
26 NEEDS.

27 (3) THIS SECTION APPLIES TO CONVICTIONS FOR THE FOLLOWING

1 OFFENSES:

2 (a) POSSESSION OF A CONTROLLED SUBSTANCE; BUT ONLY WHEN
3 THE QUANTITY OF THE CONTROLLED SUBSTANCE IS NOT MORE THAN FOUR
4 GRAMS OF A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, NOT
5 MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN, KETAMINE, OR
6 CATHINONE, OR NOT MORE THAN FOUR MILLIGRAMS OF FLUNITRAZEPAM.
7 THE DISTRICT ATTORNEY AND DEFENDANT MAY STIPULATE TO THE
8 AMOUNT OF THE CONTROLLED SUBSTANCE POSSESSED BY THE DEFENDANT
9 AT THE TIME OF SENTENCING, OR THE COURT SHALL DETERMINE THE
10 AMOUNT AT THE TIME OF SENTENCING.

11 (b) A LEVEL 4 DRUG FELONY FOR DISTRIBUTION PURSUANT TO THE
12 PROVISIONS OF SECTION 18-18-405 (2) (c) (II);

13 (c) POSSESSION OF TWELVE OUNCES OR MORE OF MARIJUANA OR
14 THREE OUNCES OR MORE OF MARIJUANA CONCENTRATE; OR

15 (d) A VIOLATION OF SECTION 18-18-415.

16 (4) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
17 CONTRARY, A DEFENDANT IS NOT ELIGIBLE FOR RELIEF UNDER THIS
18 SECTION IF:

19 (a) THE DEFENDANT HAS A PRIOR CONVICTION FOR A CRIME OF
20 VIOLENCE AS DESCRIBED IN SECTION 18-1.3-406 OR A PRIOR CONVICTION
21 FOR AN OFFENSE THAT IS REQUIRED TO BE SENTENCED PURSUANT TO THE
22 PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE, OR A CRIME IN
23 ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY SUBJECT TO
24 THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A CRIME OF
25 VIOLENCE OR ANY OFFENSE REQUIRED TO BE SENTENCED PURSUANT TO
26 THE PROVISIONS OF SECTION 18-1.3-406 IN THIS STATE;

27 (b) THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT TO

1 SECTION 18-1.3-201; AND

2 (c) (I) THE DEFENDANT HAS TWO OR MORE PRIOR FELONY
3 CONVICTIONS FOR A DRUG OFFENSE PURSUANT TO THIS ARTICLE, OR A
4 CRIME IN ANOTHER STATE, THE UNITED STATES, OR ANY TERRITORY
5 SUBJECT TO THE JURISDICTION OF THE UNITED STATES THAT WOULD BE A
6 VIOLATION OF THIS ARTICLE.

7 (II) FOR PURPOSES OF THIS PARAGRAPH (c), A PRIOR DRUG FELONY
8 CONVICTION INCLUDES ANY PRIOR DIVERSION, DEFERRED PROSECUTION,
9 OR DEFERRED JUDGMENT AND SENTENCE FOR FELONY OR ANY FELONY
10 OFFENSE FOR WHICH RELIEF WAS PREVIOUSLY GRANTED PURSUANT TO THIS
11 SECTION OR ANY MISDEMEANOR DRUG CONVICTION THAT WAS ORIGINALLY
12 CHARGED AS A DRUG FELONY OFFENSE.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 18-1.3-104.5 as
14 follows:

15 **18-1.3-104.5. Alternatives in imposition of sentence in drug**
16 **felony cases - exhaustion of remedies.** (1) THE GENERAL ASSEMBLY
17 FINDS THAT IT IS ESSENTIAL IN CERTAIN LEVEL 4 DRUG FELONY CASES
18 THAT THE COURT CONSIDER ALL SENTENCING OPTIONS TO ENSURE THAT
19 THE STATE'S COSTLY PRISON RESOURCES ARE USED FOR THOSE OFFENDERS
20 FOR WHOM ANOTHER SENTENCE IS NOT APPROPRIATE OR WILL NOT
21 PROPERLY MEET THE GOALS OF COMMUNITY SAFETY AND REHABILITATION
22 OF THE OFFENDER.

23 (2) (a) PRIOR TO THE IMPOSITION OF ANY SENTENCE TO THE
24 DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE AT
25 SENTENCING OR AT RESENTENCING AFTER A REVOCATION OF PROBATION
26 OR COMMUNITY CORRECTIONS SENTENCE, THE COURT SHALL EXHAUST ALL
27 REASONABLE AND APPROPRIATE ALTERNATIVE SENTENCES FOR THE

1 OFFENSE CONSIDERING ALL FACTORS OUTLINED IN PARAGRAPH (b) OF THIS
2 SUBSECTION (2).

3 (b) IF THE COURT SENTENCES THE DEFENDANT TO THE
4 DEPARTMENT OF CORRECTIONS FOR A LEVEL 4 DRUG FELONY OFFENSE, IT
5 MUST DETERMINE THAT INCARCERATION IS THE MOST SUITABLE OPTION
6 GIVEN THE FACTS AND CIRCUMSTANCES OF THE CASE, INCLUDING THE
7 DEFENDANT'S WILLINGNESS TO PARTICIPATE IN TREATMENT. FURTHER,
8 THE COURT MUST ALSO DETERMINE THAT ALL OTHER REASONABLE AND
9 APPROPRIATE SANCTIONS AND RESPONSES TO THE VIOLATION THAT ARE
10 AVAILABLE TO THE COURT HAVE BEEN TRIED AND FAILED, DO NOT APPEAR
11 LIKELY TO BE SUCCESSFUL IF TRIED, OR PRESENT AN UNACCEPTABLE RISK
12 TO PUBLIC SAFETY.

13 (c) IN MAKING THE DETERMINATION IN PARAGRAPH (b) OF THIS
14 SUBSECTION (2), THE COURT SHALL REVIEW, TO THE EXTENT AVAILABLE,
15 THE INFORMATION PROVIDED BY THE SUPERVISING AGENCY, WHICH
16 INCLUDES, BUT IS NOT LIMITED TO, A COMPLETE STATEMENT AS TO WHAT
17 TREATMENT AND SENTENCING OPTIONS HAVE BEEN TRIED AND HAVE
18 FAILED, WHAT OTHER COMMUNITY OPTIONS ARE AVAILABLE AND THE
19 REASONS WHY ANY OTHER AVAILABLE COMMUNITY OPTIONS APPEAR TO
20 BE UNLIKELY TO BE SUCCESSFUL. THE SUPERVISING AGENCY SHALL
21 PROVIDE TO THE COURT THE RISK LEVEL OF THE OFFENDER AS DETERMINED
22 BY AN EVIDENCE-BASED RISK ASSESSMENT TOOL EMPLOYED BY THE
23 SUPERVISING AGENCY AND ANY OTHER INFORMATION RELEVANT TO THE
24 DEFENDANT'S RISK TO PUBLIC SAFETY.

25 **SECTION 3.** In Colorado Revised Statutes, 18-1.3-301, **amend**
26 (4); and **add** (1) (g.5) as follows:

27 **18-1.3-301. Authority to place offenders in community**

1 **corrections programs.** (1) (g.5) NOTWITHSTANDING ANY OTHER
2 PROVISION OF LAW TO THE CONTRARY, IF AN OFFENDER IS TERMINATED OR
3 REJECTED FROM A COMMUNITY CORRECTIONS PROGRAM AFTER HAVING
4 BEEN SENTENCED TO THE PROGRAM FOR A LEVEL 4 DRUG FELONY, THE
5 COURT SHALL CONDUCT A RESENTENCING HEARING IN ORDER TO COMPLY
6 WITH EACH EXHAUSTION OF REMEDY PROVISION IN SECTION 18-1.3-405.5
7 OR SHALL MAKE WRITTEN FINDINGS REGARDING RESENTENCING AFTER
8 CONSIDERATION OF ALL THE INFORMATION PROVIDED TO THE COURT
9 PURSUANT TO SECTION 18-1.3-104.5 (2) (c). NOTHING IN THIS SECTION
10 REQUIRES THAT A COMMUNITY CORRECTIONS PROGRAM ACCEPT OR
11 MAINTAIN AN OFFENDER WHO HAS BEEN TERMINATED FROM A COMMUNITY
12 CORRECTIONS PROGRAM.

13 (4) (a) District courts, county courts, and other local criminal
14 justice officials may enter into agreements with community corrections
15 programs which include the use of such programs to supervise offenders
16 awaiting trial for felony or misdemeanor offenses, offenders convicted of
17 misdemeanors, or offenders under deferred judgments. Such agreements
18 are subject to review and approval by the community corrections board
19 of the jurisdiction in which any community corrections program making
20 such agreement is located. Any such use of a community corrections
21 program may be supported with funding from local governments, public
22 or private grants, offender fees, and other sources other than the state
23 general fund.

24 (b) A DISTRICT COURT, COUNTY COURT, AND ANY OTHER CRIMINAL
25 JUSTICE OFFICIAL MAY ENTER INTO AGREEMENTS WITH COMMUNITY
26 CORRECTIONS PROGRAMS THAT PROVIDE RESIDENTIAL TREATMENT, FOR
27 THE PLACEMENT AND SUPERVISION OF MISDEMEANOR DRUG OFFENDERS AS

1 A TERM AND CONDITION OF PROBATION WHEN ASSESSED TREATMENT NEED
 2 LEVELS INDICATE THAT RESIDENTIAL TREATMENT IS NECESSARY AND
 3 APPROPRIATE. THE AGREEMENT IS SUBJECT TO REVIEW AND APPROVAL BY
 4 THE COMMUNITY CORRECTIONS BOARD IN THE JURISDICTION WHERE A
 5 COMMUNITY CORRECTIONS PROGRAM IS LOCATED. A COMMUNITY
 6 CORRECTIONS PROGRAM USED PURSUANT TO THIS PARAGRAPH (b) MAY
 7 RECEIVE FUNDS FROM THE CORRECTIONAL TREATMENT CASH FUND, AS
 8 WELL AS LOCAL FUNDING, PUBLIC OR PRIVATE GRANTS, OR OFFENDER FEES.

9 **SECTION 4.** In Colorado Revised Statutes, **add** 18-1.3-401.5 as
 10 follows:

11 **18-1.3-401.5. Drug felonies classified - presumptive and**
 12 **aggravated penalties.** (1) THE PROVISIONS OF THIS SECTION ONLY APPLY
 13 TO A CONVICTION FOR A DRUG FELONY OFFENSE DESCRIBED IN ARTICLE 18
 14 OF THIS TITLE COMMITTED ON OR AFTER JULY 1, 2013. FOR PURPOSES OF
 15 THIS SECTION, "FELONY" MEANS ANY FELONY OR DRUG FELONY DEFINED
 16 IN THE STATE STATUTES.

17 (2) (a) FOR OFFENSES COMMITTED ON OR AFTER JULY 1, 2013,
 18 DRUG FELONIES ARE DIVIDED INTO FOUR LEVELS THAT ARE DISTINGUISHED
 19 FROM ONE ANOTHER BY THE RANGES OF PENALTIES, WHICH ARE
 20 AUTHORIZED UPON CONVICTION OF A DRUG FELONY:

21	LEVEL	PRESUMPTIVE RANGE		PERIOD
22				OF PAROLE
23	DF1	EIGHT YEARS	THIRTY-TWO	THREE YEARS
24			YEARS	
25	DF2	FOUR YEARS	EIGHT YEARS	TWO YEARS
26	DF3	TWO YEARS	FOUR YEARS	ONE YEAR
27	DF4	SIX MONTHS	ONE YEAR	ONE YEAR

1	LEVEL	AGGRAVATED RANGE		
2	DF2	EIGHT YEARS	SIXTEEN YEARS	TWO YEARS
3	DF3	FOUR YEARS	SIX YEARS	ONE YEAR
4	DF4	ONE YEAR	TWO YEARS	ONE YEAR

5 (b) (I) AS TO ANY PERSON SENTENCED FOR A DRUG FELONY
6 COMMITTED ON OR AFTER JULY 1, 2013, AS OTHERWISE PROVIDED IN
7 SECTION 18-1.3-401 (1) (a) (III), IN ADDITION TO, OR IN LIEU OF, ANY
8 SENTENCE TO IMPRISONMENT, PROBATION, COMMUNITY CORRECTIONS, OR
9 WORK RELEASE, A FINE WITHIN THE FOLLOWING RANGES MAY BE IMPOSED
10 FOR THE SPECIFIED LEVEL OF DRUG FELONIES:

11	LEVEL	MINIMUM	MAXIMUM
12		SENTENCE	SENTENCE
13	DF1	FIVE THOUSAND	ONE MILLION DOLLARS
14		DOLLARS	
15	DF2	THREE THOUSAND	SEVEN HUNDRED FIFTY
16		DOLLARS	THOUSAND DOLLARS
17	DF3	TWO THOUSAND	FIVE HUNDRED THOUSAND
18		DOLLARS	DOLLARS
19	DF4	ONE THOUSAND	ONE HUNDRED THOUSAND
20		DOLLARS	DOLLARS

21 (II) FAILURE TO PAY A FINE IMPOSED PURSUANT TO THIS
22 PARAGRAPH (b) IS GROUNDS FOR REVOCATION OF PROBATION,
23 COMMUNITY CORRECTIONS, OR A SUSPENDED SENTENCE, IF THE
24 DEFENDANT HAS THE ABILITY TO PAY THE FINE.

25 (III) IF A REVOCATION OCCURS PURSUANT TO SUBPARAGRAPH (II)
26 OF THIS PARAGRAPH (b), THE COURT MAY IMPOSE ANY SENTENCE LEGALLY
27 AVAILABLE, SUBJECT TO THE PROVISIONS OF SECTION 18-1.3-104.5 (2).

1 (IV) ALL FINES COLLECTED PURSUANT TO THIS PARAGRAPH (b)
2 MUST BE DEPOSITED IN THE FINES COLLECTION FUND CREATED IN SECTION
3 18-1.3-401 (1) (a) (III) (D) AND ARE SUBJECT TO THE PROVISIONS OF THAT
4 SECTION.

5 (3) A PERSON WHO IS PAROLED PURSUANT TO SECTION
6 17-22.5-403, C.R.S., OR ANY PERSON WHO IS NOT PAROLED AND IS
7 DISCHARGED PURSUANT TO LAW, SHALL BE SUBJECT TO THE MANDATORY
8 PERIOD OF PAROLE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF
9 SUBSECTION (2) OF THIS SECTION. THE MANDATORY PERIOD OF PAROLE
10 MAY NOT BE WAIVED BY THE OFFENDER OR WAIVED OR SUSPENDED BY THE
11 COURT AND IS SUBJECT TO THE PROVISIONS OF SECTION 17-22.5-403 (8),
12 C.R.S., WHICH PERMITS THE STATE BOARD OF PAROLE TO DISCHARGE THE
13 OFFENDER AT ANY TIME DURING THE TERM OF PAROLE UPON A
14 DETERMINATION THAT THE OFFENDER HAS BEEN SUFFICIENTLY
15 REHABILITATED AND REINTEGRATED INTO SOCIETY AND CAN NO LONGER
16 BENEFIT FROM PAROLE SUPERVISION.

17 (4) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO
18 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION COMMENCES
19 IMMEDIATELY UPON THE DISCHARGE OF AN OFFENDER FROM
20 IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS.
21 IF THE OFFENDER HAS BEEN GRANTED RELEASE TO PAROLE SUPERVISION
22 BY THE STATE BOARD OF PAROLE, THE OFFENDER IS DEEMED TO HAVE
23 DISCHARGED THE OFFENDER'S SENTENCE TO IMPRISONMENT PROVIDED FOR
24 IN SUBSECTION (2) OF THIS SECTION IN THE SAME MANNER AS IF SUCH
25 SENTENCE WERE DISCHARGED PURSUANT TO LAW. WHEN AN OFFENDER IS
26 RELEASED BY THE STATE BOARD OF PAROLE OR RELEASED BECAUSE THE
27 OFFENDER'S SENTENCE WAS DISCHARGED PURSUANT TO LAW, THE

1 MANDATORY PERIOD OF PAROLE MUST BE SERVED BY THE OFFENDER. AN
2 OFFENDER SENTENCED FOR A DRUG FELONY MAY RECEIVE EARNED TIME
3 PURSUANT TO SECTION 17-22.5-405, C.R.S., AND WHILE SERVING A
4 MANDATORY PAROLE PERIOD IN ACCORDANCE WITH THIS SECTION.

5 (5) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE
6 COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO
7 SENTENCING PROVISIONS IN THIS SECTION OR SECTION 18-1.3-401, THE
8 MANDATORY PERIOD OF PAROLE FOR THE OFFENDER MUST BE THE
9 LONGEST MANDATORY PERIOD OF PAROLE ESTABLISHED FOR A FELONY
10 FOR WHICH THE OFFENDER WAS CONVICTED.

11 (6) ANY PERSON SENTENCED FOR A LEVEL 1, 2, 3, OR 4 DRUG
12 FELONY THAT IS THE OFFENDER'S SECOND OR SUBSEQUENT FELONY OR
13 DRUG FELONY OFFENSE, REGARDLESS OF THE LENGTH OF THE PERSON'S
14 SENTENCE TO INCARCERATION AND THE MANDATORY PERIOD OF PAROLE,
15 IS NOT DEEMED TO HAVE FULLY DISCHARGED HIS OR HER SENTENCE UNTIL
16 THE PERSON EITHER COMPLETES, OR IS DISCHARGED BY THE STATE BOARD
17 OF PAROLE FROM, THE MANDATORY PERIOD OF PAROLE IMPOSED
18 PURSUANT TO PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

19 (7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
20 CONTRARY, IF THE DEFENDANT IS CONVICTED A LEVEL 1 DRUG FELONY,
21 THE COURT SHALL SENTENCE THE DEFENDANT TO A PERIOD OF AT LEAST
22 EIGHT YEARS IN THE DEPARTMENT OF CORRECTIONS.

23 (8) IN IMPOSING A SENTENCE TO INCARCERATION, THE COURT
24 SHALL IMPOSE A DEFINITE SENTENCE THAT IS WITHIN THE PRESUMPTIVE
25 RANGES SET FORTH IN SUBSECTION (2) OF THIS SECTION; EXCEPT THAT,
26 FOR LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, THE COURT MAY
27 SENTENCE THE DEFENDANT IN THE AGGRAVATED RANGE IF IT CONCLUDES

1 AGGRAVATING CIRCUMSTANCES EXIST. THE AGGRAVATING
2 CIRCUMSTANCES MUST BE BASED ON EVIDENCE IN THE RECORD OF THE
3 SENTENCING HEARING, THE PRESENTENCE REPORT, AND ANY FACTORS
4 AGREED TO BY THE PARTIES AND MUST SUPPORT A DIFFERENT SENTENCE
5 THAT BETTER SERVES THE PURPOSES OF THIS CODE WITH RESPECT TO
6 SENTENCING, AS SET FORTH IN SECTION 18-1-102.5.

7 (9) IN ALL CASES, EXCEPT AS PROVIDED IN SUBSECTION (10) OF
8 THIS SECTION, IN WHICH A SENTENCE THAT IS NOT WITHIN THE
9 PRESUMPTIVE RANGE IS IMPOSED, THE COURT SHALL MAKE SPECIFIC
10 FINDINGS ON THE RECORD, DETAILING THE AGGRAVATING
11 CIRCUMSTANCES THAT CONSTITUTE THE REASONS FOR VARYING FROM THE
12 PRESUMPTIVE SENTENCE.

13 (10) (a) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF
14 ONE OR MORE OF THE FOLLOWING AGGRAVATING CIRCUMSTANCES AT THE
15 TIME OF THE COMMISSION OF A DRUG FELONY OFFENSE REQUIRES THE
16 COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO
17 SENTENCE THE DEFENDANT TO A TERM OF AT LEAST THE MIDPOINT IN THE
18 PRESUMPTIVE RANGE BUT NOT MORE THAN THE MAXIMUM TERM OF THE
19 AGGRAVATED RANGE:

20 (I) THE DEFENDANT WAS ON PAROLE FOR ANOTHER FELONY;

21 (II) THE DEFENDANT WAS ON PROBATION OR WAS ON BOND WHILE
22 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR
23 ANOTHER FELONY;

24 (III) THE DEFENDANT WAS UNDER CONFINEMENT, IN PRISON, OR
25 IN ANY CORRECTIONAL INSTITUTION AS A CONVICTED FELON, OR AN
26 ESCAPEE FROM ANY CORRECTIONAL INSTITUTION FOR ANOTHER FELONY;

27 OR

1 (IV) THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE
2 AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR A
3 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
4 COMMITTED BY AN ADULT.

5 (b) IN ANY CASE IN WHICH ONE OR MORE OF THE AGGRAVATING
6 CIRCUMSTANCES PROVIDED FOR IN PARAGRAPH (a) OF THIS SUBSECTION
7 (10) EXIST, THE PROVISIONS OF SUBSECTION (9) OF THIS SECTION DO NOT
8 APPLY.

9 (c) NOTHING IN THIS SUBSECTION (10) PRECLUDES THE COURT
10 FROM CONSIDERING AGGRAVATING CIRCUMSTANCES OTHER THAN THOSE
11 STATED IN PARAGRAPH (a) OF THIS SUBSECTION (10) AS THE BASIS FOR
12 SENTENCING THE DEFENDANT TO A TERM GREATER THAN THE
13 PRESUMPTIVE RANGE FOR THE DRUG FELONY.

14 (11) EXCEPT FOR A LEVEL 1 DRUG FELONY, THE PRESENCE OF ANY
15 ONE OR MORE OF THE FOLLOWING SENTENCE-ENHANCING CIRCUMSTANCES
16 AT THE TIME OF THE COMMISSION OF THE DRUG FELONY ALLOWS THE
17 COURT, IF IT SENTENCES THE DEFENDANT TO INCARCERATION, TO
18 SENTENCE THE DEFENDANT TO A TERM IN THE PRESUMPTIVE OR
19 AGGRAVATED RANGE:

20 (a) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A
21 FELONY IN A PREVIOUS CASE AND THE DEFENDANT WAS CONVICTED OF
22 ANY FELONY IN THE PREVIOUS CASE;

23 (b) THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A
24 DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A FELONY IF
25 COMMITTED BY AN ADULT;

26 (c) THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO
27 A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS A

1 FELONY;

2 (d) THE DEFENDANT WAS ON BOND IN A JUVENILE PROSECUTION
3 UNDER TITLE 19, C.R.S., FOR HAVING PLED GUILTY TO A LESSER
4 DELINQUENT ACT WHEN THE ORIGINAL DELINQUENT ACT CHARGED WOULD
5 HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

6 (e) THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND
7 SENTENCE FOR A DELINQUENT ACT THAT WOULD HAVE CONSTITUTED A
8 FELONY IF COMMITTED BY AN ADULT; OR

9 (f) THE DEFENDANT WAS ON PAROLE FOR HAVING BEEN
10 ADJUDICATED A DELINQUENT CHILD FOR AN OFFENSE THAT WOULD
11 CONSTITUTE A FELONY IF COMMITTED BY AN ADULT.

12 (12) WHEN IT APPEARS TO THE SATISFACTION OF THE COURT THAT
13 THE ENDS OF JUSTICE AND THE BEST INTEREST OF THE PUBLIC, AS WELL AS
14 THE DEFENDANT, WILL BE BEST SERVED THEREBY, THE COURT HAS THE
15 POWER TO SUSPEND THE IMPOSITION OR EXECUTION OF SENTENCE FOR
16 SUCH PERIOD AND UPON SUCH TERMS AND CONDITIONS AS IT MAY DEEM
17 BEST; EXCEPT THAT THE COURT MAY NOT SUSPEND A SENTENCE TO THE
18 MINIMUM TERM OF INCARCERATION WHEN THE DEFENDANT IS CONVICTED
19 OF A LEVEL 1 DRUG FELONY. IN NO INSTANCE MAY A SENTENCE BE
20 SUSPENDED IF THE DEFENDANT IS INELIGIBLE FOR PROBATION PURSUANT
21 TO SECTION 18-1.3-201, EXCEPT UPON AN EXPRESS WAIVER BEING MADE
22 BY THE SENTENCING COURT REGARDING A PARTICULAR DEFENDANT UPON
23 RECOMMENDATION OF THE DISTRICT ATTORNEY AND APPROVAL OF SUCH
24 RECOMMENDATION BY AN ORDER OF THE SENTENCING COURT PURSUANT
25 TO SECTION 18-1.3-201 (4).

26 (13) EVERY SENTENCE ENTERED UNDER THIS SECTION MUST
27 INCLUDE CONSIDERATION OF RESTITUTION AS REQUIRED BY PART 6 OF

1 THIS ARTICLE AND BY ARTICLE 18.5 OF TITLE 16, C.R.S.

2 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-501, **amend**
3 (1) (a) introductory portion; and **add** (1) (d) and (1) (e) as follows:

4 **18-1.3-501. Misdemeanors classified - drug misdemeanors and**
5 **drug petty offenses classified - penalties.** (1) (a) EXCEPT AS OTHERWISE
6 PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (1), misdemeanors are
7 divided into three classes ~~which~~ THAT are distinguished from one another
8 by the following penalties ~~which~~ THAT are authorized upon conviction
9 except as provided in subsection (1.5) of this section:

10 (d) FOR PURPOSES OF SENTENCING A PERSON CONVICTED OF A
11 MISDEMEANOR DRUG OFFENSE DESCRIBED IN ARTICLE 18 OF THIS TITLE,
12 COMMITTED ON OR AFTER JULY 1, 2013, DRUG MISDEMEANORS ARE
13 DIVIDED INTO TWO LEVELS THAT ARE DISTINGUISHED FROM ONE ANOTHER
14 BY THE FOLLOWING PENALTIES AND THAT ARE AUTHORIZED UPON
15 CONVICTION:

16	LEVEL	MINIMUM SENTENCE	MAXIMUM SENTENCE
17	DM1	SIX MONTHS	EIGHTEEN MONTHS
18		IMPRISONMENT,	IMPRISONMENT,
19		FIVE HUNDRED DOLLARS	FIVE THOUSAND
20		FINE, OR BOTH	DOLLARS FINE, OR BOTH
21	DM2	NO IMPRISONMENT,	TWELVE MONTHS
22		FIFTY DOLLARS FINE	IMPRISONMENT,
23			SEVEN HUNDRED FIFTY
24			DOLLARS FINE

25 (e) FOR EACH DRUG PETTY OFFENSE, THE SENTENCING RANGE IS
26 STATED IN THE OFFENSE STATUTE.

27 **SECTION 6.** In Colorado Revised Statutes, **amend** 18-18-101

1 as follows:

2 **18-18-101. Short title.** This article shall be known and may be
3 cited as the "Uniform Controlled Substances Act of ~~1992~~ 2013".

4 **SECTION 7.** In Colorado Revised Statutes, 18-18-401, **amend**
5 (1) as follows:

6 **18-18-401. Legislative declaration.** (1) The general assembly
7 hereby finds, determines, and declares that:

8 (a) The regulation of controlled substances in this state is
9 important and necessary for the preservation of public safety and public
10 health;

11 (b) MEETING THE PUBLIC SAFETY AND PUBLIC HEALTH NEEDS OF
12 OUR COMMUNITIES DEMANDS A COLLABORATIVE EFFORT INVOLVING
13 PRIMARY HEALTH CARE, BEHAVIORAL HEALTH, CRIMINAL JUSTICE, AND
14 SOCIAL SERVICE SYSTEMS;

15 ~~(b)~~ (c) Successful, community-based substance abuse treatment
16 and education programs, in conjunction with mental health treatment as
17 necessary, provide effective tools in the effort to reduce drug usage ~~and~~
18 ~~criminal behavior in communities~~ AND ENHANCE PUBLIC SAFETY BY
19 REDUCING THE LIKELIHOOD THAT DRUG USERS WILL HAVE FURTHER
20 CONTACT WITH THE CRIMINAL JUSTICE SYSTEM. Therapeutic intervention
21 and ongoing individualized treatment plans prepared through the use of
22 meaningful and proven assessment tools and evaluations offer a ~~potential~~
23 AN EFFECTIVE alternative to incarceration in appropriate circumstances
24 and should be utilized accordingly.

25 ~~(c)~~ (d) Savings recognized from reductions in incarceration rates
26 should be dedicated toward funding community-based treatment options
27 and other mechanisms that are accessible to all of the state's counties for

1 the implementation and continuation of such programs.

2 (e) THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE
3 JUSTICE SUBMITTED A REPORT TO THE GENERAL ASSEMBLY ON DECEMBER
4 15, 2012, AFTER SIGNIFICANT STUDY OF EFFECTIVE APPROACHES TO
5 REDUCED DRUG ABUSE AND USE OF CRIMINAL JUSTICE SANCTIONS THAT
6 RECOMMENDS MULTIPLE CHANGES TO THE CRIMINAL LAW RELATING TO
7 CONTROLLED SUBSTANCES. THE COMMISSION CONTINUES WORK TO
8 DEVELOP A MORE EFFECTIVE TREATMENT SYSTEM IN COLORADO AND
9 CONTINUES TO COLLECT DATA TO MEASURE THE IMPACT OF THE CHANGES
10 TO THIS PART 4 ENACTED IN 2013.

11 **SECTION 8.** In Colorado Revised Statutes, 18-18-403.5, **amend**
12 (2) as follows:

13 **18-18-403.5. Unlawful possession of a controlled substance.**

14 (2) A person who violates subsection (1) of this section by possessing:

15 (a) ~~(F) Any material, compound, mixture, or preparation weighing~~
16 ~~four grams or less that contains any quantity of flunitrazepam, ketamine,~~
17 ~~or a controlled substance listed in schedule I or II of part 2 of this article~~
18 ~~except methamphetamine commits a class 6 felony~~ LEVEL 4 DRUG
19 FELONY.

20 ~~(II) Any material, compound, mixture, or preparation weighing~~
21 ~~more than four grams that contains any quantity of flunitrazepam,~~
22 ~~ketamine, or a controlled substance listed in schedule I or II of part 2 of~~
23 ~~this article except methamphetamine commits a class 4 felony.~~

24 ~~(b) (F) Any material, compound, mixture, or preparation weighing~~
25 ~~two grams or less that contains any quantity of methamphetamine~~
26 ~~commits a class 6 felony.~~

27 ~~(H) Any material, compound, mixture, or preparation weighing~~

1 ~~more than two grams that contains any quantity of methamphetamine~~
2 ~~commits a class 4 felony.~~

3 (c) Any material, compound, mixture, or preparation that contains
4 any quantity of a controlled substance listed in schedule III, IV, or V of
5 part 2 of this article except flunitrazepam or ketamine commits a ~~class 4~~
6 ~~misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

7 **SECTION 9.** In Colorado Revised Statutes, 18-18-404, **amend**
8 (1) (a) as follows:

9 **18-18-404. Unlawful use of a controlled substance.**

10 (1) (a) Except as is otherwise provided for offenses concerning
11 marijuana and marijuana concentrate in sections 18-18-406 and
12 18-18-406.5, any person who uses any controlled substance, except when
13 it is dispensed by or under the direction of a person licensed or authorized
14 by law to prescribe, administer, or dispense the controlled substance for
15 bona fide medical needs, commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG
16 MISDEMEANOR.

17 **SECTION 10.** In Colorado Revised Statutes, 18-18-405, **amend**
18 (2) and (5); and **repeal** (2.5), (3), (3.5), and (7) as follows:

19 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
20 **or sale.** ~~(2) (a) Except as is otherwise provided for offenses concerning~~
21 ~~marijuana and marijuana concentrate in section 18-18-406 and for~~
22 ~~offenses involving minors in section 18-18-407 (1) (g), any person who~~
23 ~~violates any of the provisions of subsection (1) of this section:~~

24 ~~(I) In the case of a controlled substance listed in schedule I or H~~
25 ~~of part 2 of this article, commits:~~

26 ~~(A) A class 3 felony; or~~

27 ~~(B) A class 2 felony, if the violation is committed subsequent to~~

1 a prior conviction in this or any other state, the United States, or any
2 territory subject to the jurisdiction of the United States of a violation to
3 which this subparagraph (I) applies or would apply if convicted in this
4 state;

5 (II) In the case of a controlled substance listed in schedule III of
6 part 2 of this article, commits:

7 (A) A class 4 felony; or

8 (B) A class 3 felony, if the violation is committed subsequent to
9 any prior conviction in this or any other state, the United States, or any
10 territory subject to the jurisdiction of the United States of a violation to
11 which subparagraph (I) of this paragraph (a) or this subparagraph (II)
12 applies or would apply if convicted in this state;

13 (III) In the case of a controlled substance listed in schedule IV of
14 part 2 of this article, commits:

15 (A) A class 5 felony; or

16 (B) A class 4 felony, if the violation is committed subsequent to
17 a prior conviction in this or any other state, the United States, or any
18 territory subject to the jurisdiction of the United States of a violation to
19 which subparagraph (I) or (II) of this paragraph (a) or this subparagraph
20 (III) applies or would apply if convicted in this state;

21 (IV) In the case of a controlled substance listed in schedule V of
22 part 2 of this article, commits:

23 (A) A class 1 misdemeanor; or

24 (B) A class 5 felony, if the violation is committed subsequent to
25 any prior conviction in this or any other state, the United States, or any
26 territory subject to the jurisdiction of the United States of a violation to
27 which subparagraph (I), (II), or (III) of this paragraph (a) or this

1 ~~subparagraph (IV) applies or would apply if convicted in this state.~~

2 (2) EXCEPT AS OTHERWISE PROVIDED, FOR AN OFFENSE
3 CONCERNING MARIJUANA AND MARIJUANA CONCENTRATE IN SECTION
4 18-18-406 AND FOR SPECIAL OFFENSES IN SECTION 18-18-407, ANY
5 PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SUBSECTION (1) OF
6 THIS SECTION:

7 (a) COMMITS A LEVEL 2 DRUG FELONY IF:

8 (I) THE VIOLATION INVOLVES AN AMOUNT THAT IS:

9 (A) MORE THAN FOURTEEN GRAMS, BUT NOT MORE THAN TWO
10 HUNDRED TWENTY-FIVE GRAMS, OF A SCHEDULE I OR SCHEDULE II
11 CONTROLLED SUBSTANCE;

12 (B) MORE THAN SEVEN GRAMS, BUT NOT MORE ONE HUNDRED
13 TWELVE GRAMS, OF METHAMPHETAMINE, HEROIN, KETAMINE, OR
14 CATHINONE; OR

15 (C) MORE THAN TEN MILLIGRAMS, BUT NOT MORE THAN FIFTY
16 MILLIGRAMS, OF FLUNITRAZEPAM;

17 (II) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE
18 TRANSFERS ANY QUANTITY OF A SCHEDULE III OR SCHEDULE IV
19 CONTROLLED SUBSTANCE TO A MINOR AND THE ADULT IS AT LEAST TWO
20 YEARS OLDER THAN THE MINOR;

21 (b) COMMITS A LEVEL 3 DRUG FELONY IF:

22 (I) THE VIOLATION INVOLVES AN AMOUNT THAT IS:

23 (A) NOT MORE THAN FOURTEEN GRAMS OF A SCHEDULE I OR
24 SCHEDULE II CONTROLLED SUBSTANCE;

25 (B) NOT MORE THAN SEVEN GRAMS OF METHAMPHETAMINE,
26 HEROIN, KETAMINE, OR CATHINONE;

27 (C) NOT MORE THAN TEN MILLIGRAMS OF FLUNITRAZEPAM; OR

1 (D) MORE THAN FOUR GRAMS OF A SCHEDULE III OR SCHEDULE IV
2 CONTROLLED SUBSTANCE.

3 (c) COMMITS A LEVEL 4 DRUG FELONY IF:

4 (I) THE VIOLATION INVOLVES AN AMOUNT THAT IS NOT MORE
5 THAN FOUR GRAMS OF A SCHEDULE III OR SCHEDULE IV CONTROLLED
6 SUBSTANCE; OR

7 (II) NOTWITHSTANDING ANY OTHER PROVISION TO THE
8 CONTRARY, THE DISTRIBUTION OR TRANSFER OF A SCHEDULE I OR
9 SCHEDULE II CONTROLLED SUBSTANCE INVOLVES NOT MORE THAN FOUR
10 GRAMS OR NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN,
11 KETAMINE, OR CATHINONE AND WHEN THE PERSON TRANSFERRING ALL OR
12 PART OF THE ABOVE QUANTITY PERFORMS THE TRANSFER FOR THE
13 PURPOSE OF JOINTLY POSSESSING AND CONSUMING ALL OF THE
14 TRANSFERRED CONTROLLED SUBSTANCE AT A TIME SUBSTANTIALLY
15 CONTEMPORANEOUS WITH THE TRANSFER.

16 (d) COMMITS A LEVEL 1 DRUG MISDEMEANOR IF THE VIOLATION
17 INVOLVES:

18 (I) A SCHEDULE V CONTROLLED SUBSTANCE; OR

19 (II) A TRANSFER WITH NO REMUNERATION OF NOT MORE THAN
20 FOUR GRAMS OF A SCHEDULE III OR SCHEDULE IV CONTROLLED
21 SUBSTANCE.

22 ~~(2.5) (a) Notwithstanding the provisions of subparagraph (H) of~~
23 ~~paragraph (a) of subsection (2) of this section, a person who violates the~~
24 ~~provisions of subsection (1) of this section with regard to flunitrazepam~~
25 ~~or ketamine commits a class 3 felony; except that the person commits a~~
26 ~~class 2 felony if the violation is committed subsequent to a prior~~
27 ~~conviction in this or any other state, the United States, or any territory~~

1 subject to the jurisdiction of the United States of a violation involving
2 flunitrazepam or ketamine or to which subparagraph (I) of paragraph (a)
3 of subsection (2) of this section applies or would apply if convicted in
4 this state.

5 (b) Any person convicted of violating the provisions of subsection
6 (1) of this section with regard to flunitrazepam or ketamine shall be
7 subject to the mandatory sentencing provisions of subsection (3) of this
8 section.

9 (3) (a) Unless a greater sentence is required pursuant to the
10 provisions of another statute, any person convicted pursuant to
11 subparagraph (I) of paragraph (a) of subsection (2) of this section for
12 knowingly manufacturing, dispensing, selling, distributing, or possessing
13 with intent to manufacture, dispense, sell, or distribute, or inducing,
14 attempting to induce, or conspiring with one or more other persons, to
15 manufacture, dispense, sell, distribute, or possess with intent to
16 manufacture, dispense, sell, or distribute an amount that is or has been
17 represented to be:

18 (I) At least twenty-five grams or one ounce but less than four
19 hundred fifty grams of any material, compound, mixture, or preparation
20 that contains a schedule I or schedule II controlled substance as listed in
21 section 18-18-203 or 18-18-204 shall be sentenced to the department of
22 corrections for at least the minimum term of incarceration in the
23 presumptive range provided for such offense in section 18-1.3-401 (1)(a)
24 with regard to offenses other than manufacturing, dispensing, selling,
25 distributing, or possessing with intent to manufacture, dispense, sell, or
26 distribute, and for at least the minimum term of incarceration in the
27 presumptive range provided for such offense in section 18-1.3-401 (1)(a)

1 as ~~modified pursuant to section 18-1.3-401 (10) with regard to~~
2 ~~manufacturing, dispensing, selling, distributing, or possessing with intent~~
3 ~~to manufacture, dispense, sell, or distribute;~~

4 (H) ~~At least four hundred fifty grams or one pound but less than~~
5 ~~one thousand grams of any material, compound, mixture, or preparation~~
6 ~~that contains a schedule I or schedule II controlled substance as listed in~~
7 ~~section 18-18-203 or 18-18-204 shall be sentenced to the department of~~
8 ~~corrections for a term of at least the midpoint of the presumptive range~~
9 ~~but not more than twice the maximum presumptive range provided for~~
10 ~~such offense in section 18-1.3-401 (1) (a) with regard to offenses other~~
11 ~~than manufacturing, dispensing, selling, distributing, or possessing with~~
12 ~~intent to manufacture, dispense, sell, or distribute, and for a term of at~~
13 ~~least the midpoint of the presumptive range but not more than twice the~~
14 ~~maximum presumptive range provided for such offense in section~~
15 ~~18-1.3-401 (1) (a) as modified pursuant to section 18-1.3-401 (10) with~~
16 ~~regard to manufacturing, dispensing, selling, distributing, or possessing~~
17 ~~with intent to manufacture, dispense, sell, or distribute;~~

18 (H) ~~One thousand grams or one kilogram or more of any~~
19 ~~material, compound, mixture, or preparation that contains a schedule I or~~
20 ~~schedule II controlled substance as listed in section 18-18-203 or~~
21 ~~18-18-204 shall be sentenced to the department of corrections for a term~~
22 ~~greater than the maximum presumptive range but not more than twice the~~
23 ~~maximum presumptive range provided for such offense in section~~
24 ~~18-1.3-401 (1) (a) with regard to offenses other than manufacturing,~~
25 ~~dispensing, selling, distributing, or possessing with intent to manufacture,~~
26 ~~dispense, sell, or distribute, and for a term greater than the maximum~~
27 ~~presumptive range but not more than twice the maximum presumptive~~

1 range provided for such offense in section ~~18-1.3-401 (1) (a)~~ as modified
2 pursuant to section ~~18-1.3-401 (10)~~ with regard to manufacturing,
3 dispensing, selling, distributing, or possessing with intent to manufacture,
4 dispense, sell, or distribute.

5 (b) In addition to any other penalty imposed under this subsection
6 ~~(3)~~, upon conviction, a person who violates this subsection ~~(3)~~ shall be
7 fined not less than one thousand dollars but not more than five hundred
8 thousand dollars. For offenses committed on or after July 1, 1985, the
9 fine shall be in an amount within the presumptive range set out in section
10 ~~18-1.3-401 (1) (a) (III)~~.

11 (3.5) The felony offense of unlawfully manufacturing, dispensing,
12 selling, distributing, or possessing with intent to unlawfully manufacture,
13 dispense, sell, or distribute a controlled substance is an extraordinary risk
14 crime that is subject to the modified presumptive sentencing range
15 specified in section ~~18-1.3-401 (10)~~.

16 (5) When a person commits unlawful distribution, manufacture,
17 dispensing, sale, or possession with intent to manufacture, dispense, sell,
18 or distribute any schedule I or schedule II controlled substance, as listed
19 in section ~~18-18-203~~ or ~~18-18-204~~, flunitrazepam, or ketamine, OR
20 CONSPIRES WITH ONE OR MORE PERSONS TO COMMIT THE OFFENSE,
21 pursuant to subsection (1) of this section, twice or more within a period
22 of six months, without having been placed in jeopardy for the prior
23 offense or offenses, and the aggregate amount of the schedule I or
24 schedule II controlled substance, flunitrazepam, or ketamine involved
25 equals or exceeds twenty-five grams, the defendant shall be sentenced
26 pursuant to the mandatory sentencing requirements specified in
27 subsection ~~(3)~~ of this section MAY BE USED TO DETERMINE THE LEVEL OF

1 DRUG OFFENSE.

2 (7) ~~Notwithstanding the provisions of subsection (2) of this~~
3 ~~section, and except as otherwise provided in sub-subparagraph (B) of~~
4 ~~subparagraph (F) of paragraph (a) of subsection (2) or paragraph (a) of~~
5 ~~subsection (2.5) of this section, a person who violates subsection (1) of~~
6 ~~this section by selling, dispensing, or distributing a controlled substance~~
7 ~~other than marijuana or marijuana concentrate to a minor under eighteen~~
8 ~~years of age and who is at least eighteen years of age and at least two~~
9 ~~years older than the minor commits a class 3 felony and, unless a greater~~
10 ~~sentence is provided under any other statute, shall be sentenced to the~~
11 ~~department of corrections for a term of at least the minimum, but not~~
12 ~~more than twice the maximum, of the presumptive range provided for~~
13 ~~such offense in section 18-1.3-401 (1) (a) as modified pursuant to section~~
14 ~~18-1.3-401 (10).~~

15 **SECTION 11.** In Colorado Revised Statutes, **repeal and**
16 **reenact, with amendments,** 18-18-406 as follows:

17 **18-18-406. Offenses relating to marijuana and marijuana**
18 **concentrate.** (1) (a) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN
19 SIX OUNCES, BUT NOT MORE THAN TWO AND ONE-HALF POUNDS OF
20 MARIJUANA OR MORE THAN THREE OUNCES, BUT NOT MORE THAN ONE
21 POUND OF MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN
22 ADULT AND TWO YEARS OLDER THAN THE MINOR IS A LEVEL 2 DRUG
23 FELONY.

24 (b) THE SALE, TRANSFER, OR DISPENSING OF MORE THAN ONE
25 OUNCE, BUT NOT MORE THAN SIX OUNCES OF MARIJUANA OR MORE THAN
26 ONE-HALF OUNCE, BUT NOT MORE THAN THREE OUNCES, OF MARIJUANA
27 CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND TWO YEARS

1 OLDER THAN THE MINOR IS A LEVEL 3 DRUG FELONY.

2 (c) THE SALE, TRANSFER, OR DISPENSING OF NOT MORE THAN ONE
3 OUNCE OF MARIJUANA OR NOT MORE THAN ONE-HALF OUNCE OF
4 MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND
5 TWO YEARS OLDER THAN THE MINOR IS A LEVEL 4 DRUG FELONY.

6 (2) (a) (I) IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY PROCESS
7 OR MANUFACTURE ANY MARIJUANA OR MARIJUANA CONCENTRATE OR
8 KNOWINGLY ALLOW TO BE PROCESSED OR MANUFACTURED ON LAND
9 OWNED, OCCUPIED, OR CONTROLLED BY HIM OR HER ANY MARIJUANA OR
10 MARIJUANA CONCENTRATE EXCEPT AS AUTHORIZED PURSUANT TO PART
11 1 OF ARTICLE 42.5 OF TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE
12 27, C.R.S.

13 (II) A PERSON WHO VIOLATES THE PROVISIONS OF SUBPARAGRAPH
14 (I) OF THIS PARAGRAPH (a) COMMITS A LEVEL 3 DRUG FELONY.

15 (b) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (7) OF
16 THIS SECTION AND EXCEPT AS AUTHORIZED BY PART 1 OF ARTICLE 42.5 OF
17 TITLE 12, C.R.S., PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S., OR PART 2 OR
18 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY
19 DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE,
20 DISPENSE, SELL, OR DISTRIBUTE MARIJUANA OR MARIJUANA
21 CONCENTRATE; OR ATTEMPT, INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE
22 WITH ONE OR MORE OTHER PERSONS, TO DISPENSE, SELL, DISTRIBUTE, OR
23 POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE
24 MARIJUANA OR MARIJUANA CONCENTRATE.

25 (II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b),
26 "DISPENSE" DOES NOT INCLUDE LABELING, AS DEFINED IN SECTION
27 12-42.5-102 (18), C.R.S.

1 (III) A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) COMMITS:

3 (A) A LEVEL 2 DRUG FELONY IF THE AMOUNT OF MARIJUANA IS
4 MORE THAN FIVE POUNDS BUT NOT MORE THAN FIFTY POUNDS OR THE
5 AMOUNT OF MARIJUANA CONCENTRATE IS MORE THAN TWO AND
6 ONE-HALF POUNDS BUT NOT MORE THAN TWENTY-FIVE POUNDS;

7 (B) A LEVEL 3 DRUG FELONY IF THE AMOUNT IS MORE THAN
8 TWELVE OUNCES BUT NOT MORE THAN FIVE POUNDS OF MARIJUANA OR
9 MORE THAN SIX OUNCES BUT NOT MORE THAN TWO AND ONE-HALF
10 POUNDS OF MARIJUANA CONCENTRATE;

11 (C) A LEVEL 4 DRUG FELONY IF THE AMOUNT IS MORE THAN FOUR
12 OUNCES, BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR MORE
13 THAN TWO OUNCES BUT NOT MORE THAN SIX OUNCES OF MARIJUANA
14 CONCENTRATE; OR

15 (D) A LEVEL 1 DRUG MISDEMEANOR IF THE AMOUNT IS NOT MORE
16 THAN FOUR OUNCES OF MARIJUANA OR NOT MORE THAN TWO OUNCES OF
17 MARIJUANA CONCENTRATE.

18 (3) EXCEPT AS PROVIDED FOR IN SECTION 16 OF ARTICLE XVIII OF
19 THE STATE CONSTITUTION, IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY
20 CULTIVATE, GROW, OR PRODUCE A MARIJUANA PLANT OR KNOWINGLY
21 ALLOW A MARIJUANA PLANT TO BE CULTIVATED, GROWN, OR PRODUCED
22 ON LAND THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS. A PERSON
23 WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (3) COMMITS:

24 (a) A LEVEL 3 DRUG FELONY IF THE OFFENSE INVOLVES MORE
25 THAN THIRTY PLANTS;

26 (b) A LEVEL 4 DRUG FELONY IF THE OFFENSE INVOLVES MORE
27 THAN SIX BUT NOT MORE THAN THIRTY PLANTS; OR

1 (c) A LEVEL 1 DRUG MISDEMEANOR IF THE OFFENSE INVOLVES NOT
2 MORE THAN SIX PLANTS.

3 (4) (a) A PERSON WHO POSSESSES MORE THAN TWELVE OUNCES OF
4 MARIJUANA OR MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE
5 COMMITS A LEVEL 4 DRUG FELONY.

6 (b) A PERSON WHO POSSESSES MORE THAN SIX OUNCES OF
7 MARIJUANA BUT NOT MORE THAN TWELVE OUNCES OF MARIJUANA OR NOT
8 MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE COMMITS A
9 LEVEL 1 DRUG MISDEMEANOR.

10 (c) A PERSON WHO POSSESSES MORE THAN TWO OUNCES OF
11 MARIJUANA BUT NOT MORE THAN SIX OUNCES OF MARIJUANA COMMITS A
12 LEVEL 2 DRUG MISDEMEANOR.

13 (5) (a) (I) EXCEPT AS PROVIDED IN SECTION 16 OF ARTICLE XVIII
14 OF THE STATE CONSTITUTION AND AS DESCRIBED IN SECTION 18-1-711, A
15 PERSON WHO POSSESSES NOT MORE THAN TWO OUNCES OF MARIJUANA
16 COMMITS A DRUG PETTY OFFENSE AND, UPON CONVICTION THEREOF,
17 SHALL BE PUNISHED BY A FINE OF NOT MORE THAN ONE HUNDRED
18 DOLLARS.

19 (II) WHENEVER A PERSON IS ARRESTED OR DETAINED FOR A
20 VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), THE
21 ARRESTING OR DETAINING OFFICER SHALL PREPARE A WRITTEN NOTICE OR
22 SUMMONS FOR THE PERSON TO APPEAR IN COURT. THE WRITTEN NOTICE OR
23 SUMMONS MUST CONTAIN THE NAME AND ADDRESS OF THE ARRESTED OR
24 DETAINED PERSON, THE DATE, TIME, AND PLACE WHERE SUCH PERSON
25 SHALL APPEAR, AND A PLACE FOR THE SIGNATURE OF THE PERSON
26 INDICATING THE PERSON'S WRITTEN PROMISE TO APPEAR ON THE DATE
27 AND AT THE TIME AND PLACE INDICATED ON THE NOTICE OR SUMMONS.

1 ONE COPY OF THE NOTICE OR SUMMONS MUST BE GIVEN TO THE PERSON
2 ARRESTED OR DETAINED, ONE COPY MUST BE SENT TO THE COURT WHERE
3 THE ARRESTED OR DETAINED PERSON IS TO APPEAR, AND SUCH OTHER
4 COPIES AS MAY BE REQUIRED BY THE LAW ENFORCEMENT AGENCY
5 EMPLOYING THE ARRESTING OR DETAINING OFFICER MUST BE SENT TO THE
6 PLACES DESIGNATED BY SUCH LAW ENFORCEMENT AGENCY. THE DATE
7 SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE AT LEAST
8 SEVEN DAYS AFTER THE ARREST OR DETENTION UNLESS THE PERSON
9 ARRESTED OR DETAINED DEMANDS AN EARLIER HEARING. THE PLACE
10 SPECIFIED IN THE NOTICE OR SUMMONS TO APPEAR MUST BE BEFORE A
11 JUDGE HAVING JURISDICTION OF THE DRUG PETTY OFFENSE WITHIN THE
12 COUNTY IN WHICH THE DRUG PETTY OFFENSE CHARGED IS ALLEGED TO
13 HAVE BEEN COMMITTED. THE ARRESTED OR DETAINED PERSON, IN ORDER
14 TO SECURE RELEASE FROM ARREST OR DETENTION, MUST PROMISE IN
15 WRITING TO APPEAR IN COURT BY SIGNING THE NOTICE OR SUMMONS
16 PREPARED BY THE ARRESTING OR DETAINING OFFICER. ANY PERSON WHO
17 DOES NOT HONOR THE WRITTEN PROMISE TO APPEAR COMMITS A CLASS 3
18 MISDEMEANOR.

19 (b) (I) EXCEPT AS DESCRIBED IN SECTION 18-1-711, A PERSON WHO
20 OPENLY AND PUBLICLY DISPLAYS, CONSUMES, OR USES TWO OUNCES OR
21 LESS OF MARIJUANA COMMITS A DRUG PETTY OFFENSE AND, UPON
22 CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF UP TO ONE
23 HUNDRED DOLLARS AND UP TO TWENTY-FOUR HOURS OF COMMUNITY
24 SERVICE.

25 (II) OPEN AND PUBLIC DISPLAY, CONSUMPTION, OR USE OF MORE
26 THAN TWO OUNCES OF MARIJUANA OR ANY AMOUNT OF MARIJUANA
27 CONCENTRATE IS DEEMED POSSESSION THEREOF, AND VIOLATIONS SHALL

1 BE PUNISHED AS PROVIDED FOR IN SUBSECTION (4) OF THIS SECTION.

2 (III) EXCEPT AS OTHERWISE PROVIDED FOR IN SUBPARAGRAPH (I)
3 OF THIS PARAGRAPH (b), CONSUMPTION OR USE OF MARIJUANA OR
4 MARIJUANA CONCENTRATE IS DEEMED POSSESSION THEREOF, AND
5 VIOLATIONS MUST BE PUNISHED AS PROVIDED FOR IN PARAGRAPH (a) OF
6 THIS SUBSECTION (5) AND SUBSECTION (4) OF THIS SECTION.

7 (c) TRANSFERRING OR DISPENSING NOT MORE THAN TWO OUNCES
8 OF MARIJUANA FROM ONE PERSON TO ANOTHER FOR NO CONSIDERATION
9 IS A DRUG PETTY OFFENSE AND IS NOT DEEMED DISPENSING OR SALE
10 THEREOF.

11 (6) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY
12 PERSON WHO POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS
13 ANY DRUG CLASSIFIED UNDER GROUP C GUIDELINES OF THE NATIONAL
14 CANCER INSTITUTE, AS AMENDED, APPROVED BY THE FEDERAL FOOD AND
15 DRUG ADMINISTRATION.

16 (7) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO ANY
17 PERSON WHO POSSESSES, USES, PRESCRIBES, DISPENSES, OR ADMINISTERS
18 DRONABINOL (SYNTHETIC) IN SESAME OIL AND ENCAPSULATED IN A SOFT
19 GELATIN CAPSULE IN A FEDERAL FOOD AND DRUG ADMINISTRATION
20 APPROVED DRUG PRODUCT, PURSUANT TO PART 1 OF ARTICLE 42.5 OF
21 TITLE 12, C.R.S., OR PART 2 OF ARTICLE 80 OF TITLE 27, C.R.S.

22 **SECTION 12.** In Colorado Revised Statutes, 18-18-406.1,
23 **amend** (2) as follows:

24 **18-18-406.1. Unlawful use or possession of synthetic**
25 **cannabinoids or salvia divinorum.** (2) A person who violates any
26 provision of subsection (1) of this section commits a ~~class 2 misdemeanor~~
27 LEVEL 2 DRUG MISDEMEANOR.

1 **SECTION 13.** In Colorado Revised Statutes, 18-18-406.2,
2 **amend** (2) and (3) as follows:

3 **18-18-406.2. Unlawful distribution, manufacturing,**
4 **dispensing, sale, or cultivation of synthetic cannabinoids or salvia**
5 **divinorum.** (2) A person who violates any provision of subsection (1)
6 of this section commits a ~~class 5 felony~~ LEVEL 3 DRUG FELONY.

7 (3) Notwithstanding the provisions of subsection (2) of this
8 section, a person who violates any provision of subsection (1) of this
9 section by dispensing, selling, or distributing any amount of any synthetic
10 cannabinoid or salvia divinorum commits a ~~class 4 felony~~ LEVEL 2 DRUG
11 FELONY if the person:

12 (a) Dispenses, sells, or distributes the synthetic cannabinoid or
13 salvia divinorum to a minor who is less than eighteen years of age; and

14 (b) Is at least eighteen years of age and at least two years older
15 than said minor.

16 **SECTION 14.** In Colorado Revised Statutes, 18-18-406.5,
17 **amend** (1) as follows:

18 **18-18-406.5. Unlawful use of marijuana in a detention facility.**

19 (1) ~~Any~~ A person confined in ~~any~~ A detention facility in this state who
20 possesses or uses up to eight ounces of marijuana commits a ~~class 6~~
21 ~~felony; except that, if the person commits a second or subsequent~~
22 ~~violation where both the initial and subsequent violations involved more~~
23 ~~than one ounce of marijuana, the person commits a class 5 felony~~ LEVEL
24 1 DRUG MISDEMEANOR.

25 **SECTION 15.** In Colorado Revised Statutes, **repeal** 18-18-406.7
26 and 18-18-406.8.

27 **SECTION 16.** In Colorado Revised Statutes, **amend** 18-18-407

1 as follows:

2 **18-18-407. Special offenses - definitions.** ~~(1) Upon a felony~~
3 ~~conviction under this part 4, the presence of any one or more of the~~
4 ~~following extraordinary aggravating circumstances designating the~~
5 ~~defendant a special offender shall require the court to sentence the~~
6 ~~defendant to the department of corrections for a term of at least the~~
7 ~~minimum term of years within the presumptive range for a class 2 felony~~
8 ~~but not more than twice the maximum term of years within the~~
9 ~~presumptive range for a class 2 felony:~~

10 (a) ~~The defendant was previously convicted in courts of the United~~
11 ~~States or a state or any political subdivision thereof for two or more~~
12 ~~offenses involving the manufacture, sale, dispensing, or distribution of~~
13 ~~controlled substances, which offenses did not arise from the same~~
14 ~~criminal episode or course of events and differ from the pending felony~~
15 ~~and which were punishable by imprisonment in excess of one year;~~

16 (b) ~~The defendant committed an offense as part of a pattern of~~
17 ~~manufacturing, sale, dispensing, or distributing controlled substances,~~
18 ~~which offense is a felony under applicable laws of Colorado, which~~
19 ~~constituted a substantial source of that person's income, and in which that~~
20 ~~person manifested special skill or expertise;~~

21 (c) ~~The defendant committed a felony which was, or was in~~
22 ~~furtherance of, a conspiracy with one or more persons to engage in a~~
23 ~~pattern of manufacturing, sale, dispensing, or distributing a controlled~~
24 ~~substance, which offense is a felony under applicable laws of Colorado,~~
25 ~~and the defendant did, or agreed that he would, initiate, organize, plan,~~
26 ~~finance, direct, manage, or supervise all or part of such conspiracy or~~
27 ~~manufacture, sale, dispensing, or distributing, or give or receive a bribe,~~

1 or use force in connection with such manufacture, sale, dispensing, or
2 distribution;

3 (d) ~~The defendant unlawfully introduced, distributed, or imported~~
4 ~~into the state of Colorado more than four grams of any schedule I or II~~
5 ~~controlled substance listed in part 2 of this article or more than two grams~~
6 ~~of methamphetamine;~~

7 (e) ~~The defendant unlawfully sold, dispensed, distributed,~~
8 ~~possessed, or imported into the state of Colorado a quantity in excess of~~
9 ~~one hundred pounds of marijuana or marijuana concentrate;~~

10 (f) ~~(I) The defendant used, displayed, or possessed on his or her~~
11 ~~person or within his or her immediate reach, a deadly weapon as defined~~
12 ~~in section 18-1-901 (3) (e) at the time of the commission of a violation~~
13 ~~of this part 4; or~~

14 (H) ~~The defendant or a confederate of the defendant possessed a~~
15 ~~firearm, as defined in section 18-1-901 (3) (h), to which the defendant or~~
16 ~~confederate had access in a manner that posed a risk to others or in a~~
17 ~~vehicle the defendant was occupying during the commission of a~~
18 ~~violation of this part 4;~~

19 (g) ~~The defendant solicited, induced, encouraged, intimidated,~~
20 ~~employed, hired, or procured a child, as defined in section 19-1-103 (18),~~
21 ~~C.R.S., to act as his agent to assist in the unlawful distribution,~~
22 ~~manufacturing, dispensing, sale, or possession for the purposes of sale of~~
23 ~~any controlled substance in violation of section 18-18-405. It shall not be~~
24 ~~a defense under this paragraph (g) that the defendant did not know the~~
25 ~~age of any such individual.~~

26 (h) ~~(I) The defendant engaged in a continuing criminal enterprise~~
27 ~~by violating any provision of this part 4 which is a felony; and~~

1 ~~(H) The violation is a part of a continuing series of two or more~~
2 ~~violations of this part 4 on separate occasions:~~

3 ~~(A) Which are undertaken by that person in concert with five or~~
4 ~~more other persons with respect to whom that person occupies a position~~
5 ~~of organizer, supervisor, or any other position of management; and~~

6 ~~(B) From which that person obtained substantial income or~~
7 ~~resources.~~

8 ~~(2) (a) A defendant shall be a special offender if the defendant is~~
9 ~~convicted of selling, distributing, possessing with intent to distribute,~~
10 ~~manufacturing, or attempting to manufacture any controlled substance in~~
11 ~~violation of section 18-18-405 either within or upon the grounds of any~~
12 ~~public or private elementary, middle, junior high, or high school,~~
13 ~~vocational school, or public housing development, or within one~~
14 ~~thousand feet of the perimeter of any such school or public housing~~
15 ~~development grounds on any street, alley, parkway, sidewalk, public~~
16 ~~park, playground, or other area or premises that is accessible to the~~
17 ~~public, or within any private dwelling that is accessible to the public for~~
18 ~~the purpose of the sale, distribution, use, exchange, manufacture, or~~
19 ~~attempted manufacture of controlled substances in violation of this~~
20 ~~article, or in any school vehicle, as defined in section 42-1-102 (88.5),~~
21 ~~C.R.S., while such school vehicle is engaged in the transportation of~~
22 ~~persons who are students. The court is required in addition to imposing~~
23 ~~the sentence to imprisonment in the department of corrections required~~
24 ~~by subsection (1) of this section, to fine the defendant without suspension~~
25 ~~at least twice the minimum fine provided for in section 18-1.3-401 (1) (a)~~
26 ~~(H) if the defendant's offense is a felony or in section 18-1.3-501 (1) if~~
27 ~~the defendant's offense is a misdemeanor.~~

1 ~~(b) The department of education may cooperate with local boards~~
2 ~~of education and the officials of public housing developments, and make~~
3 ~~recommendations regarding the uniform implementation and furnishing~~
4 ~~of notice of the provisions of this subsection (2). Such recommendations~~
5 ~~may include, but shall not be limited to, the uniform use of signs and~~
6 ~~other methods of notification which may be used to implement this~~
7 ~~subsection (2).~~

8 ~~(c) For the purposes of this section, the term "public housing~~
9 ~~development" means any low-income housing project of any state,~~
10 ~~county, municipal, or other governmental entity or public body owned~~
11 ~~and operated by a public housing authority that has an on-site manager.~~
12 ~~"Public housing development" shall not include single-family dispersed~~
13 ~~housing or small or large clusters of dispersed housing having no on-site~~
14 ~~manager.~~

15 (1) IT IS UNLAWFUL FOR ANY PERSON KNOWINGLY TO
16 MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE, OR TO POSSESS WITH
17 INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE, A
18 CONTROLLED SUBSTANCE; OR INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE
19 WITH ONE OR MORE OTHER PERSONS, TO MANUFACTURE, DISPENSE, SELL,
20 DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL,
21 OR DISTRIBUTE, A CONTROLLED SUBSTANCE; OR POSSESS ONE OR MORE
22 CHEMICALS OR SUPPLIES OR EQUIPMENT WITH INTENT TO MANUFACTURE
23 A CONTROLLED SUBSTANCE UNDER THE SPECIAL CIRCUMSTANCES
24 DESCRIBED IN PARAGRAPHS (a) THROUGH (i) OF SUBSECTION (2) OF THIS
25 SECTION.

26 (2) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
27 SUBSECTION (1) OF THIS SECTION COMMITS A LEVEL 1 DRUG FELONY AND

1 IS SUBJECT TO THE MANDATORY SENTENCING PROVISION IN SECTION
2 18-1.3-401.5 (7) IF:

3 (a) THE VIOLATION INVOLVES AN AMOUNT THAT IS:

4 (I) MORE THAN TWO HUNDRED TWENTY-FIVE GRAMS OF A
5 SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE; OR

6 (II) MORE THAN ONE HUNDRED TWELVE GRAMS OF
7 METHAMPHETAMINE, HEROIN, KETAMINE, OR CATHINONE;

8 (III) MORE THAN FIFTY POUNDS OF MARIJUANA OR MORE THAN
9 TWENTY-FIVE POUNDS OF MARIJUANA CONCENTRATE; OR

10 (IV) MORE THAN FIFTY MILLIGRAMS OF FLUNITRAZEPAM.

11 (b) AN ADULT SELLS, DISPENSES, DISTRIBUTES, OR OTHERWISE
12 TRANSFERS ANY QUANTITY OF A SCHEDULE I OR SCHEDULE II
13 CONTROLLED SUBSTANCE OTHER THAN MARIJUANA OR MARIJUANA
14 CONCENTRATE TO A MINOR AND THE ADULT IS AT LEAST TWO YEARS
15 OLDER THAN THE MINOR;

16 (c) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
17 (1) OF THIS SECTION AS PART OF A PATTERN OF MANUFACTURING, SALE,
18 DISPENSING, OR DISTRIBUTING CONTROLLED SUBSTANCES, WHICH
19 VIOLATION IS A FELONY UNDER APPLICABLE LAWS OF COLORADO, WHICH
20 CONSTITUTED A SUBSTANTIAL SOURCE OF THAT PERSON'S INCOME, AND IN
21 WHICH THAT PERSON MANIFESTED SPECIAL SKILL OR EXPERTISE;

22 (d) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
23 (1) OF THIS SECTION IN THE COURSE OF, OR IN FURTHERANCE OF, A
24 CONSPIRACY WITH ONE OR MORE PERSONS TO ENGAGE IN A PATTERN OF
25 MANUFACTURING, SALE, DISPENSING, OR DISTRIBUTING A CONTROLLED
26 SUBSTANCE, WHICH OFFENSE IS A FELONY UNDER APPLICABLE LAWS OF
27 COLORADO, AND THE DEFENDANT DID, OR AGREED THAT HE OR SHE

1 WOULD, INITIATE, ORGANIZE, PLAN, FINANCE, DIRECT, MANAGE, OR
2 SUPERVISE ALL OR PART OF SUCH CONSPIRACY OR MANUFACTURE, SALE,
3 DISPENSING, OR DISTRIBUTING, OR GIVE OR RECEIVE A BRIBE, OR USE
4 FORCE IN CONNECTION WITH SUCH MANUFACTURE, SALE, DISPENSING, OR
5 DISTRIBUTION;

6 (e) THE DEFENDANT COMMITTED THE VIOLATION OF SUBSECTION
7 (1) OF THIS SECTION AND IN THE COURSE OF THAT VIOLATION IMPORTED
8 INTO THE STATE OF COLORADO MORE THAN FOURTEEN GRAMS OF ANY
9 SCHEDULE I OR II CONTROLLED SUBSTANCE LISTED IN PART 2 OF THIS
10 ARTICLE OR MORE THAN SEVEN GRAMS OF METHAMPHETAMINE, HEROIN,
11 KETAMINE, OR CATHINONE, OR TEN MILLIGRAMS OF FLUNITRAZEPAM;

12 (f) (I) THE DEFENDANT USED, DISPLAYED, OR POSSESSED ON HIS
13 OR HER PERSON OR WITHIN HIS OR HER IMMEDIATE REACH, A DEADLY
14 WEAPON AS DEFINED IN SECTION 18-1-901 (3) (e) AT THE TIME OF THE
15 COMMISSION OF A VIOLATION OF SUBSECTION (1) OF THIS SECTION; OR

16 (II) THE DEFENDANT OR A CONFEDERATE OF THE DEFENDANT
17 POSSESSED A FIREARM, AS DEFINED IN SECTION 18-1-901 (3) (h), TO
18 WHICH THE DEFENDANT OR CONFEDERATE HAD ACCESS IN A MANNER
19 THAT POSED A RISK TO OTHERS OR IN A VEHICLE THE DEFENDANT WAS
20 OCCUPYING AT THE TIME OF THE COMMISSION OF THE VIOLATION OF
21 SUBSECTION (1) OF THIS SECTION;

22 (g) THE DEFENDANT SOLICITED, INDUCED, ENCOURAGED,
23 INTIMIDATED, EMPLOYED, HIRED, OR PROCURED A CHILD, AS DEFINED IN
24 SECTION 19-1-103 (18), C.R.S., TO ACT AS HIS OR HER AGENT TO ASSIST
25 IN THE UNLAWFUL DISTRIBUTION, MANUFACTURING, DISPENSING, SALE, OR
26 POSSESSION FOR THE PURPOSES OF SALE OF ANY CONTROLLED SUBSTANCE
27 AT THE TIME OF THE COMMISSION OF THE VIOLATION OF SUBSECTION (1)

1 OF THIS SECTION. IT SHALL NOT BE A DEFENSE UNDER THIS PARAGRAPH (g)
2 THAT THE DEFENDANT DID NOT KNOW THE AGE OF ANY SUCH CHILD.

3 (h) (I) THE DEFENDANT ENGAGED IN A CONTINUING CRIMINAL
4 ENTERPRISE BY VIOLATING ANY FELONY PROVISION OF SUBSECTION (1) OF
5 THIS SECTION; AND

6 (II) THE VIOLATION IS A PART OF A CONTINUING SERIES OF TWO OR
7 MORE VIOLATIONS OF THIS PART 4 ON SEPARATE OCCASIONS:

8 (A) WHICH ARE UNDERTAKEN BY THAT PERSON IN CONCERT WITH
9 FIVE OR MORE OTHER PERSONS WITH RESPECT TO WHOM THAT PERSON
10 OCCUPIES A POSITION OF ORGANIZER, SUPERVISOR, OR ANY OTHER
11 POSITION OF MANAGEMENT; AND

12 (B) FROM WHICH THAT PERSON OBTAINED SUBSTANTIAL INCOME
13 OR RESOURCES.

14 (i) (I) THE DEFENDANT IS CONVICTED OF SELLING, DISTRIBUTING,
15 POSSESSING WITH INTENT TO DISTRIBUTE, MANUFACTURING, OR
16 ATTEMPTING TO MANUFACTURE ANY CONTROLLED SUBSTANCE IN
17 VIOLATION OF SUBSECTION (1) OF THIS SECTION EITHER WITHIN OR UPON
18 THE GROUNDS OF ANY PUBLIC OR PRIVATE ELEMENTARY SCHOOL, MIDDLE
19 SCHOOL, JUNIOR HIGH SCHOOL, OR HIGH SCHOOL, VOCATIONAL SCHOOL,
20 OR PUBLIC HOUSING DEVELOPMENT; WITHIN ONE THOUSAND FEET OF THE
21 PERIMETER OF ANY SUCH SCHOOL OR PUBLIC HOUSING DEVELOPMENT
22 GROUNDS ON ANY STREET, ALLEY, PARKWAY, SIDEWALK, PUBLIC PARK,
23 PLAYGROUND, OR OTHER AREA OR PREMISES THAT IS ACCESSIBLE TO THE
24 PUBLIC; WITHIN ANY PRIVATE DWELLING THAT IS ACCESSIBLE TO THE
25 PUBLIC FOR THE PURPOSE OF THE SALE, DISTRIBUTION, USE, EXCHANGE,
26 MANUFACTURE, OR ATTEMPTED MANUFACTURE OF CONTROLLED
27 SUBSTANCES IN VIOLATION OF THIS ARTICLE; OR IN ANY SCHOOL VEHICLE,

1 AS DEFINED IN SECTION 42-1-102 (88.5), C.R.S., WHILE SUCH SCHOOL
2 VEHICLE IS ENGAGED IN THE TRANSPORTATION OF PERSONS WHO ARE
3 STUDENTS.

4 (II) THE DEPARTMENT OF EDUCATION MAY COOPERATE WITH
5 LOCAL BOARDS OF EDUCATION AND THE OFFICIALS OF PUBLIC HOUSING
6 DEVELOPMENTS AND MAKE RECOMMENDATIONS REGARDING THE UNIFORM
7 IMPLEMENTATION AND FURNISHING OF NOTICE OF THE PROVISIONS OF THIS
8 PARAGRAPH (i). SUCH RECOMMENDATIONS MAY INCLUDE, BUT NEED NOT
9 BE LIMITED TO, THE UNIFORM USE OF SIGNS AND OTHER METHODS OF
10 NOTIFICATION THAT MAY BE USED TO IMPLEMENT THIS PARAGRAPH (i).

11 (III) FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC
12 HOUSING DEVELOPMENT" MEANS ANY LOW-INCOME HOUSING PROJECT OF
13 ANY STATE, COUNTY, MUNICIPAL, OR OTHER GOVERNMENTAL ENTITY OR
14 PUBLIC BODY OWNED AND OPERATED BY A PUBLIC HOUSING AUTHORITY
15 THAT HAS AN ON-SITE MANAGER. "PUBLIC HOUSING DEVELOPMENT" DOES
16 NOT INCLUDE SINGLE-FAMILY DISPERSED HOUSING OR SMALL OR LARGE
17 CLUSTERS OF DISPERSED HOUSING HAVING NO ON-SITE MANAGER.

18 (j) THE PERSON SELLS, TRANSFERS, OR DISPENSES MORE THAN TWO
19 AND ONE-HALF POUNDS OF MARIJUANA OR MORE THAN ONE POUND OF
20 MARIJUANA CONCENTRATE TO A MINOR IF THE PERSON IS AN ADULT AND
21 TWO YEARS OLDER THAN THE MINOR.

22 (3) (a) In support of the findings under paragraph ~~(b)~~ (c) of
23 subsection (1) of this section, it may be shown that the defendant has had
24 in his OR HER own name or under his OR HER control income or property
25 not explained as derived from a source other than such manufacture, sale,
26 dispensing, or distribution of controlled substances.

27 (b) For the purposes of paragraph ~~(b)~~ (c) of subsection (1) of this

1 section only, a "substantial source of that person's income" means a
2 source of income which, for any period of one year or more, exceeds the
3 minimum wage, determined on the basis of a forty-hour week and
4 fifty-week year, or which, for the same period, exceeds fifty percent of
5 the defendant's declared adjusted gross income under Colorado or any
6 other state law or under federal law, whichever adjusted gross income is
7 less.

8 (c) For the purposes of paragraph ~~(b)~~ (c) of subsection (1) of this
9 section, "special skill or expertise" in such manufacture, sale, dispensing,
10 or distribution includes any unusual knowledge, judgment, or ability,
11 including manual dexterity, facilitating the initiation, organizing,
12 planning, financing, directing, managing, supervising, executing, or
13 concealing of such manufacture, sale, dispensing, or distributing, the
14 enlistment of accomplices in such manufacture, sale, dispensing, or
15 distribution, the escape from detection or apprehension for such
16 manufacture, sale, dispensing, or distribution, or the disposition of the
17 fruits or proceeds of such manufacture, sale, dispensing, or distribution.

18 (d) For the purposes of paragraphs ~~(b)~~ and (c) AND (d) of
19 subsection (1) of this section, such manufacture, sale, dispensing, or
20 distribution forms a pattern if it embraces criminal acts which have the
21 same or similar purposes, results, participants, victims, or methods of
22 commission or otherwise are interrelated by distinguishing characteristics
23 and are not isolated events.

24 ~~(4) Nothing in this section shall preclude the court from~~
25 ~~considering aggravating circumstances other than those stated in~~
26 ~~subsection (1) of this section as a basis for sentencing the defendant to a~~
27 ~~term greater than the presumptive range for the felony.~~

1 (5) ~~If a defendant who is subject to the provisions of this section~~
2 ~~is subject to a greater sentence pursuant to the provisions of another~~
3 ~~statute, the court shall impose sentence pursuant to that statute. The~~
4 ~~prosecution shall not be forced to elect under which statute to proceed.~~

5 **SECTION 17.** In Colorado Revised Statutes, 18-18-411, **amend**
6 (4) as follows:

7 **18-18-411. Keeping, maintaining, controlling, renting, or**
8 **making available property for unlawful distribution or manufacture**
9 **of controlled substances.** (4) A person who violates this section
10 commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG MISDEMEANOR.

11 **SECTION 18.** In Colorado Revised Statutes, 18-18-412, **amend**
12 (2) as follows:

13 **18-18-412. Abusing toxic vapors - prohibited.** (2) ~~Any~~ A
14 person who knowingly violates the provisions of subsection (1) of this
15 section commits the offense of abusing toxic vapors. Abusing toxic
16 vapors is a ~~class 1 petty offense~~ LEVEL 2 DRUG MISDEMEANOR; except that
17 ~~no~~ A person shall NOT receive a sentence to confinement in jail for being
18 convicted of a first offense pursuant to this subsection (2). ~~Any~~ A person
19 convicted of a second or ~~any~~ subsequent offense pursuant to this
20 subsection (2) may receive a sentence to confinement in jail.

21 **SECTION 19.** In Colorado Revised Statutes, 18-18-412.5,
22 **amend** (3) as follows:

23 **18-18-412.5. Unlawful possession of materials to make**
24 **methamphetamine and amphetamine - penalty.** (3) A person who
25 violates the provisions of this section commits a ~~class 3 felony~~ LEVEL 2
26 DRUG FELONY.

27 **SECTION 20.** In Colorado Revised Statutes, 18-18-412.7,

1 **amend** (2) as follows:

2 **18-18-412.7. Sale or distribution of materials to manufacture**
3 **controlled substances.** (2) A violation of this section is a ~~class 3 felony.~~
4 ~~A violation of this section is an extraordinary risk crime that is subject to~~
5 ~~the modified presumptive sentencing range specified in section~~
6 ~~18-1.3-401 (10) LEVEL 2 DRUG FELONY.~~

7 **SECTION 21.** In Colorado Revised Statutes, 18-18-412.8,
8 **amend** (3) (a) as follows:

9 **18-18-412.8. Retail sale of methamphetamine precursor drugs**
10 **- unlawful acts - penalty.** (3) (a) A person who knowingly violates a
11 provision of this section commits a ~~class 2 misdemeanor~~ LEVEL 2 DRUG
12 MISDEMEANOR and, upon conviction, shall be punished as provided in
13 section 18-1.3-501.

14 **SECTION 22.** In Colorado Revised Statutes, **amend** 18-18-413
15 as follows:

16 **18-18-413. Authorized possession of controlled substances.** A
17 person to whom or for whose use any controlled substance has been
18 prescribed or dispensed by a practitioner may lawfully possess it, but only
19 in the container in which it was delivered to him unless he is able to show
20 that he is the legal owner or a person acting at the direction of the legal
21 owner of the controlled substance. Any person convicted of violating this
22 section commits a ~~class 1~~ DRUG petty offense, AND THE COURT SHALL
23 IMPOSE A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS.

24 **SECTION 23.** In Colorado Revised Statutes, 18-18-414, **amend**
25 (3), (4), and (5) as follows:

26 **18-18-414. Unlawful acts - licenses - penalties.** (3) ~~Any~~ A
27 person who violates paragraph (a), (b), (c), or (d) of subsection (1) of this

1 section shall be punished as provided for in section 18-18-405 or
2 ~~18-18-406~~ COMMITS A LEVEL 4 DRUG FELONY.

3 (4) ~~Any~~ A person who violates paragraph (e), (f), (g), (h), (i), (j),
4 (k), (l), (m), or (n) of subsection (1) of this section or subsection (2) of
5 this section or any other provision of this part 4 for which a penalty is not
6 specified is guilty of a misdemeanor and, upon conviction thereof, shall
7 be punished by a fine of not more than five hundred dollars, or by
8 imprisonment in the county jail for not more than one year, or by both
9 such fine and imprisonment LEVEL 2 DRUG MISDEMEANOR.

10 (5) ~~Any~~ A person who violates paragraph (o), (q), (r), or (t) of
11 subsection (1) of this section commits a ~~class 4 felony~~ LEVEL 3 DRUG
12 FELONY.

13 **SECTION 24.** In Colorado Revised Statutes, 18-18-415, **amend**
14 (2) (a) as follows:

15 **18-18-415. Fraud and deceit.** (2) Any person who violates any
16 provision of this section commits:

17 (a) A ~~class 6 felony~~ LEVEL 4 DRUG FELONY and shall be punished
18 as provided in section ~~18-1.3-401~~ 18-1.3-401.5.

19 **SECTION 25.** In Colorado Revised Statutes, 18-18-416, **amend**
20 (2) as follows:

21 **18-18-416. Controlled substances - inducing consumption by**
22 **fraudulent means.** (2) ~~Any~~ A person who violates the provisions of this
23 section commits a ~~class 4 felony~~ LEVEL 3 DRUG FELONY.

24 **SECTION 26.** In Colorado Revised Statutes, 18-18-422, **amend**
25 (1), (2), and (3) as follows:

26 **18-18-422. Imitation controlled substances - violations -**
27 **penalties.** (1) (a) Except as provided in section 18-18-424, it is unlawful

1 for ~~any~~ A person to manufacture, distribute, or possess with intent to
2 distribute an imitation controlled substance.

3 (b) ~~Any~~ A person who violates the provisions of paragraph (a) of
4 this subsection (1) commits:

5 (I) ~~A class 5 felony;~~ or LEVEL 4 DRUG FELONY.

6 (II) ~~A class 4 felony, if the violation is committed subsequent to~~
7 ~~a prior conviction for a violation of this subsection (1):~~

8 (2) (a) ~~It is unlawful for a person eighteen years of age or over to~~
9 ~~distribute~~ IF AN ADULT DISTRIBUTES an imitation controlled substance to
10 a ~~person under eighteen years of age~~ MINOR AND THE ADULT IS AT LEAST
11 TWO YEARS OLDER THAN THE MINOR, THE ADULT COMMITS A LEVEL 3
12 DRUG FELONY.

13 (b) ~~Any person who violates the provisions of paragraph (a) of~~
14 ~~this subsection (2) commits:~~

15 (I) ~~A class 3 DRUG felony;~~ or

16 (II) ~~A class 3 felony, if the violation is committed subsequent to~~
17 ~~a prior conviction for a violation of this subsection (2):~~

18 (3) (a) It is unlawful for ~~any~~ A person to place in a newspaper,
19 magazine, handbill, or other publication or to post or distribute in ~~any~~ A
20 public place ~~any~~ AN advertisement or solicitation ~~which he~~ THAT THE
21 PERSON knows will promote the distribution of imitation controlled
22 substances.

23 (b) ~~Any~~ A person who violates the provisions of paragraph (a) of
24 this subsection (3) commits a ~~class 1 misdemeanor~~ LEVEL 1 DRUG
25 MISDEMEANOR.

26 **SECTION 27.** In Colorado Revised Statutes, 18-18-423, **amend**
27 (3) as follows:

1 **18-18-423. Counterfeit substances prohibited - penalty.**

2 (3) ~~Any~~ A person who violates this section commits a ~~class 5 felony~~
3 LEVEL 3 DRUG FELONY.

4 **SECTION 28.** In Colorado Revised Statutes, 18-18-428, **amend**
5 (2) as follows:

6 **18-18-428. Possession of drug paraphernalia - penalty.**

7 (2) Any person who commits possession of drug paraphernalia commits
8 a ~~class 2~~ DRUG petty offense and, upon conviction thereof, shall be
9 punished by a fine of not more than one hundred dollars.

10 **SECTION 29.** In Colorado Revised Statutes, **amend** 18-18-429
11 as follows:

12 **18-18-429. Manufacture, sale, or delivery of drug**

13 **paraphernalia - penalty.** Any person who sells or delivers, possesses
14 with intent to sell or deliver, or manufactures with intent to sell or deliver
15 equipment, products, or materials knowing, or under circumstances
16 where one reasonably should know, that such equipment, products, or
17 materials could be used as drug paraphernalia commits a ~~class 2~~
18 **misdemeanor** LEVEL 2 DRUG MISDEMEANOR.

19 **SECTION 30.** In Colorado Revised Statutes, **amend** 18-18-430
20 as follows:

21 **18-18-430. Advertisement of drug paraphernalia -**

22 **penalty.** Any person who places an advertisement in ~~any~~ A newspaper,
23 magazine, handbill, or other publication and who intends thereby to
24 promote the sale in this state of equipment, products, or materials
25 designed and intended for use as drug paraphernalia commits a ~~class 2~~
26 **misdemeanor** LEVEL 2 DRUG MISDEMEANOR.

27 **SECTION 31.** In Colorado Revised Statutes, 16-7-301, **add** (5)

1 as follows:

2 **16-7-301. Propriety of plea discussions and plea agreements.**

3 (5) ANY PLEA AGREEMENT IN A CASE INVOLVING A PLEA TO A VIOLATION
4 OF ARTICLE 18 OF TITLE 18, C.R.S., MAY NOT REQUIRE A WAIVER BY THE
5 DEFENDANT OF THE RIGHT TO PETITION TO HAVE THE DEFENDANT'S
6 CRIMINAL CONVICTION RECORDS SEALED PURSUANT TO PART 3 OF ARTICLE
7 72 OF TITLE 24, C.R.S.

8 **SECTION 32.** In Colorado Revised Statutes, 18-1.3-204, **add**
9 (2.2) as follows:

10 **18-1.3-204. Conditions of probation - interstate compact**
11 **probation transfer cash fund - creation.** (2.2) IF A DEFENDANT IS
12 SENTENCED TO PROBATION FOR A DRUG MISDEMEANOR, THE COURT MAY
13 INCLUDE AS A CONDITION OF PROBATION A REQUIREMENT THAT THE
14 DEFENDANT PARTICIPATE IN DRUG TREATMENT. IF THE DEFENDANT'S
15 ASSESSED TREATMENT NEED IS FOR RESIDENTIAL TREATMENT, THE COURT
16 MAY MAKE RESIDENTIAL DRUG TREATMENT A CONDITION OF PROBATION
17 AND MAY PLACE THE OFFENDER IN A COMMUNITY CORRECTIONS PROGRAM
18 THAT CAN PROVIDE THE APPROPRIATE LEVEL OF TREATMENT SUBJECT TO
19 THE PROVISION OF SECTION 18-1.3-301 (4).

20 **SECTION 33.** In Colorado Revised Statutes, **amend** 18-1.3-208,
21 as follows:

22 **18-1.3-208. Intensive supervision probation programs -**
23 **legislative declaration.** (1) The general assembly finds and declares that
24 intensive supervision probation programs are an effective and desirable
25 alternative to sentences to imprisonment, ~~or~~ community corrections, OR
26 JAIL. It is the purpose of this section to encourage the judicial department
27 to establish programs for the intensive supervision of selected

1 probationers. It is the intent of the general assembly that such programs
2 be formulated so that they protect the safety and welfare of the public in
3 the community where the programs are operating and throughout the state
4 of Colorado.

5 (2) The judicial department may establish an intensive
6 supervision probation program in any judicial district or combination of
7 judicial districts in order to provide ~~an alternative to the sentencing of~~
8 ~~selected offenders to the department of corrections;~~ SUPERVISION
9 TAILORED TO THE SPECIFIC CHARACTERISTICS THAT PRODUCE A RISK
10 CLASSIFICATION REQUIRING INTENSIVE SERVICE FOR THE OFFENDER AND
11 TO FACILITATE THE OFFENDER'S PARTICIPATION IN REHABILITATIVE
12 PROGRAMS INTENDED TO ADDRESS THOSE CHARACTERISTICS. When
13 establishing such programs, the judicial department shall seek the counsel
14 of the chief judge of the district court, the office of the district attorney,
15 the state public defender or his or her designee, the county sheriff, the
16 chief probation officer in the judicial district, the department of
17 corrections, the local community corrections board, and members of the
18 public at-large.

19 (3) The judicial department shall require that offenders in the
20 program receive at least the highest level of supervision that is provided
21 to probationers. ~~Such programs are to include highly restricted activities,~~
22 ~~daily contact between the offender and the probation officer, monitored~~
23 ~~curfew, home visitation, employment visitation and monitoring, drug and~~
24 ~~alcohol screening, treatment referrals and monitoring, and restitution and~~
25 ~~community service and shall minimize any risk to the public.~~

26 (4) ~~The court may sentence~~ WHEN THE COURT SENTENCES any
27 offender ~~who is otherwise eligible for~~ TO probation, ~~and who would~~

1 ~~otherwise be sentenced to the department of corrections, to~~ THE
2 PROBATION DEPARTMENT SHALL COMPLETE AN INITIAL ASSESSMENT OF
3 THE OFFENDER'S RISK AND NEEDS, USING VALID ASSESSMENT TOOLS
4 APPROVED BY THE STATE COURT ADMINISTRATOR'S OFFICE. OFFENDERS
5 WHO ARE DETERMINED THROUGH ASSESSMENT TO BE HIGH RISK AND WHO
6 MEET THE ACCEPTANCE CRITERIA MAY BE PLACED IN an intensive
7 supervision probation program. ~~if the court determines that such offender~~
8 ~~is not a threat to society.~~ FURTHERMORE, INTENSIVE SUPERVISION
9 PROBATION MAY BE USED FOR A MISDEMEANOR OFFENDER WHO HAS BEEN
10 UNDER THE SUPERVISION OF PROBATION FOR A PERIOD OF TIME AND A
11 REASSESSMENT INDICATES THE OFFENDER'S RISK OF REOFFENSE HAS
12 INCREASED TO HIGH AND THE OFFENDER MEETS THE ACCEPTANCE
13 CRITERIA OF THE INTENSIVE PROGRAM. For purposes of this section,
14 "offender" shall have the same meaning as that set forth in section
15 17-27-102 (6), C.R.S., MEETS THE CRITERIA FOR THE PROGRAM, AND DOES
16 NOT PRESENT AN UNACCEPTABLE RISK TO THE COMMUNITY IF PLACED IN
17 THE PROGRAM.

18 (5) The judicial department shall have the power to establish and
19 enforce standards and criteria for the administration of intensive
20 supervision probation programs.

21 (6) (a) It is the intent of the general assembly in enacting this
22 subsection (6) to ~~address a portion of the projected state inmate bedspace~~
23 ~~requirements through expansion of intensive supervision probation~~
24 ~~programs authorized by this section~~ RECOGNIZE THAT HIGH-RISK
25 OFFENDERS CAN BE MANAGED IN THE COMMUNITY WITH THE APPROPRIATE
26 SUPERVISION AND THE USE OF EVIDENCE-BASED TREATMENT PROGRAMS
27 AND PRACTICES.

1 (b) The judicial department is directed to CREATE AND implement
2 a three-phase expansion of intensive supervision probation programs in
3 fiscal years 1995-96 and 1996-97 to include an additional seven hundred
4 fifty participants over the number of participants in such programs on
5 July 1, 1995 INTENSIVE SUPERVISION PROBATION PROGRAMS BASED ON
6 THE CURRENT EVIDENCE FOR REDUCING RECIDIVISM BY JULY 1, 2015.
7 INTENSIVE SUPERVISION PROBATION PROGRAMS MUST REQUIRE THE USE
8 OF VALIDATED ASSESSMENTS TO DETERMINE THE OFFENDER'S RISK OF
9 REOFFENDING. THE JUDICIAL DEPARTMENT SHALL DEVELOP CRITERIA FOR
10 OFFENDERS TO TRANSITION FROM INTENSIVE SUPERVISION PROBATION
11 PROGRAMS TO REGULAR PROBATION, BASED ON ASSESSMENT OF RISK AND
12 NEED AND PROGRAM COMPLIANCE. AN OFFENDER MAY NOT BE PLACED IN
13 OR TRANSFERRED OUT OF AN INTENSIVE SUPERVISION PROBATION
14 PROGRAM WITHOUT MEETING ESTABLISHED CRITERIA.

15 **SECTION 34.** In Colorado Revised Statutes, 18-1.3-801, **amend**
16 (1) (a) (I) (A), (1.5), (2), and (4) as follows:

17 **18-1.3-801. Punishment for habitual criminals.** (1) (a) A
18 person shall be adjudged an habitual criminal and shall be punished by
19 a term in the department of corrections of life imprisonment if the person:

- 20 (I) Is convicted of:
 - 21 (A) Any class 1 or 2 felony OR LEVEL 1 DRUG FELONY; or
 - 22 (1.5) Except as otherwise provided in subsection (5) of this
 - 23 section, every person convicted in this state of any class 1, 2, 3, 4, or 5
 - 24 felony OR LEVEL 1, 2, OR 3 DRUG FELONY who, within ten years of the
 - 25 date of the commission of the said offense, has been twice previously
 - 26 convicted upon charges separately brought and tried, and arising out of
 - 27 separate and distinct criminal episodes, either in this state or elsewhere,

1 of a felony or, under the laws of any other state, the United States, or any
2 territory subject to the jurisdiction of the United States, of a crime which,
3 if committed within this state, would be a felony shall be adjudged an
4 habitual criminal and shall be punished:

5 (a) For the felony offense of which such person is convicted by
6 imprisonment in the department of corrections for a term of three times
7 the maximum of the presumptive range pursuant to section 18-1.3-401
8 for the class OR LEVEL of felony of which such person is convicted; OR

9 (b) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH
10 PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF
11 CORRECTIONS FOR A TERM OF FORTY-EIGHT YEARS.

12 (2) (a) (I) Except as otherwise provided in paragraph (b) of this
13 subsection (2) and in subsection (5) of this section, every person
14 convicted in this state of any felony, who has been three times previously
15 convicted, upon charges separately brought and tried, and arising out of
16 separate and distinct criminal episodes, either in this state or elsewhere,
17 of a felony or, under the laws of any other state, the United States, or any
18 territory subject to the jurisdiction of the United States, of a crime which,
19 if committed within this state, would be a felony, shall be adjudged an
20 habitual criminal and shall be punished:

21 (A) For the felony offense of which such person is convicted by
22 imprisonment in the department of corrections for a term of four times
23 the maximum of the presumptive range pursuant to section 18-1.3-401
24 for the class OR LEVEL of felony of which such person is convicted; OR

25 (B) FOR THE LEVEL 1 DRUG FELONY OFFENSE OF WHICH SUCH
26 PERSON IS CONVICTED BY IMPRISONMENT IN THE DEPARTMENT OF
27 CORRECTIONS FOR A TERM OF SIXTY-FOUR YEARS.

1 (II) Such former conviction or convictions and judgment or
2 judgments shall be set forth in apt words in the indictment or information.
3 Nothing in this part 8 shall abrogate or affect the punishment by death in
4 any and all crimes punishable by death on or after July 1, 1972.

5 (b) The provisions of paragraph (a) of this subsection (2) shall not
6 apply to a conviction for a ~~class 6~~ LEVEL 4 DRUG felony pursuant to
7 section 18-18-403.5 (2) (a) (I) or (2) (b) (I), or a conviction for a ~~class 6~~
8 LEVEL 4 DRUG felony for attempt or conspiracy to commit unlawful
9 possession of a controlled substance, as described in section 18-18-403.5
10 (2) (a) (I) or (2) (b) (I), IF THE AMOUNT OF THE SCHEDULE I OR SCHEDULE
11 II CONTROLLED SUBSTANCE POSSESSED IS NOT MORE THAN FOUR GRAMS
12 OR NOT MORE THAN TWO GRAMS OF METHAMPHETAMINE, HEROIN,
13 CATHINONE, KETAMINE OR NOT MORE FOUR MILLIGRAMS OF
14 FLUNITRAZEPAM, even if the person has been previously convicted of
15 three or more qualifying felony convictions.

16 **SECTION 35.** In Colorado Revised Statutes, 16-4-203, **amend**
17 (5) as follows:

18 **16-4-203. Appeal bond hearing - order.** (5) If the defendant has
19 been charged with committing another felony, LEVEL 1 DRUG
20 MISDEMEANOR, or class 1 misdemeanor while he OR SHE is at liberty on
21 an appeal bond, and probable cause has been found with respect to such
22 other felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor or the
23 defendant has waived his OR HER right to a probable cause determination
24 as to the felony, LEVEL 1 DRUG MISDEMEANOR, or class 1 misdemeanor,
25 the court shall revoke his OR HER appeal bond on motion of the attorney
26 general or district attorney.

27 **SECTION 36.** In Colorado Revised Statutes, 16-5-206, **amend**

1 (1) as follows:

2 **16-5-206. Summons in lieu of warrant.** (1) Except in class 1,
3 class 2, and class 3 felonies, LEVEL 1 AND LEVEL 2 DRUG FELONIES, and
4 in unclassified felonies punishable by a maximum penalty of more than
5 ten years, if an indictment is returned or an information, felony
6 complaint, or complaint has been filed prior to the arrest of the person
7 named as defendant therein, the court has power to issue a summons
8 commanding the appearance of the defendant in lieu of a warrant for his
9 or her arrest unless a law enforcement officer presents in writing a basis
10 to believe there is a significant risk of flight or that the victim or public
11 safety may be compromised.

12 **SECTION 37.** In Colorado Revised Statutes, 16-5-207, **amend**
13 (2) introductory portion as follows:

14 **16-5-207. Standards and criteria relating to issuance of**
15 **summons in lieu of warrant.** (2) Except in class 1, class 2, and class 3
16 felonies OR LEVEL 1 OR LEVEL 2 DRUG FELONIES, the general policy shall
17 favor issuance of a summons instead of a warrant for the arrest of the
18 defendant except where there is reasonable ground to believe that, unless
19 taken into custody, the defendant will flee to avoid prosecution or will
20 fail to respond to a summons. The court shall issue a summons instead of
21 an arrest warrant when the prosecuting attorney so requests. When an
22 application is made to a court for issuance of an arrest warrant or
23 summons, the court may require the applicant to provide such
24 information as reasonably is available concerning the following:

25 **SECTION 38.** In Colorado Revised Statutes, 16-5-301, **amend**
26 (1) (a) and (1) (b) (II) as follows:

27 **16-5-301. Preliminary hearing or waiver - dispositional**

1 **hearing.** (1) (a) Every person accused of a class 1, 2, or 3 felony OR
2 LEVEL 1 OR LEVEL 2 DRUG FELONY by direct information or felony
3 complaint has the right to demand and receive a preliminary hearing
4 within a reasonable time to determine whether probable cause exists to
5 believe that the offense charged in the information or felony complaint
6 was committed by the defendant. In addition, only those persons accused
7 of a class 4, 5, or 6 felony by direct information or felony complaint
8 which felony requires mandatory sentencing or is a crime of violence as
9 defined in section 18-1.3-406, C.R.S., or is a sexual offense under part 4
10 of article 3 of title 18, C.R.S., shall have the right to demand and receive
11 a preliminary hearing within a reasonable time to determine whether
12 probable cause exists to believe that the offense charged in the
13 information or felony complaint was committed by the defendant. The
14 procedure to be followed in asserting the right to a preliminary hearing
15 and the time within which demand therefor must be made, as well as the
16 time within which the hearing, if demanded, shall be had, shall be as
17 provided by applicable rule of the supreme court of Colorado. A failure
18 to observe and substantially comply with such rule shall be deemed a
19 waiver of this right to a preliminary hearing.

20 (b) (II) Any defendant accused of a class 4, 5, or 6 felony OR
21 LEVEL 3 OR LEVEL 4 DRUG FELONY who is not otherwise entitled to a
22 preliminary hearing pursuant to subparagraph (I) of this paragraph (b),
23 may demand and shall receive a preliminary hearing within a reasonable
24 time pursuant to paragraph (a) of this subsection (1), if the defendant is
25 in custody for the offense for which the preliminary hearing is requested;
26 except that, upon motion of either party, the court shall vacate the
27 preliminary hearing if there is a reasonable showing that the defendant

1 has been released from custody prior to the preliminary hearing.

2 **SECTION 39.** In Colorado Revised Statutes, **amend** 16-5-501
3 as follows:

4 **16-5-501. Prosecuting attorney - incarceration - legal**
5 **representation and supporting services at state expense.** Except as
6 otherwise provided, in any criminal prosecution for class 2 and class 3
7 misdemeanors, LEVEL 1 AND LEVEL 2 DRUG MISDEMEANORS, petty
8 offenses, class 1 and class 2 misdemeanor traffic offenses, or municipal
9 or county ordinance violations, the prosecuting attorney may, at any time
10 during the prosecution, state in writing whether or not he or she will seek
11 incarceration as part of the penalty upon conviction of an offense for
12 which the defendant has been charged. If the prosecuting attorney does
13 not seek incarceration as part of such penalty, legal representation and
14 supporting services need not thereafter be provided for the defendant at
15 state expense, and no such defendant shall be incarcerated if found guilty
16 of the charges against him or her, but the defendant shall be subject to all
17 alternatives available to the court under section 18-1.3-702, C.R.S., and
18 to alternatives available to each municipality under its municipal
19 ordinances for failure to pay fines and costs.

20 **SECTION 40.** In Colorado Revised Statutes, 16-7-202, **amend**
21 (1) as follows:

22 **16-7-202. Presence of defendant.** (1) If the offense charged is
23 a felony, A LEVEL 1 DRUG MISDEMEANOR, or a class 1 misdemeanor or if
24 the maximum penalty for the offense charged is more than one year's
25 imprisonment, the defendant must be personally present for arraignment;
26 except that the court, for good cause shown, may accept a plea of not
27 guilty made by an attorney representing the defendant without requiring

1 the defendant to be personally present. In all prosecutions for lesser
2 offenses, the defendant may appear by his or her attorney who may enter
3 a plea on his or her behalf. If the defendant appears personally for a
4 charge that is not in title 42, C.R.S., the court may advise the defendant
5 of the possibility that restorative justice practices may be part of a
6 sentence, if available in the jurisdiction and requested by the victim who
7 has been informed about the restorative justice practices pursuant to
8 section 24-4.1-303 (11) (g), C.R.S.

9 **SECTION 41.** In Colorado Revised Statutes, 16-7-206, **amend**
10 (1) (c) as follows:

11 **16-7-206. Guilty pleas - procedure and effect.** (1) Every person
12 charged with an offense shall be permitted to tender a plea of guilty to
13 that offense if the following conditions have been satisfied:

14 (c) In all felony, LEVEL 1 DRUG MISDEMEANOR, and class 1
15 misdemeanor cases, the defendant shall be represented by counsel or
16 waive his right thereto in open court, and the guilty plea shall be tendered
17 in open court by the defendant in the presence of counsel, if any.

18 **SECTION 42.** In Colorado Revised Statutes, **amend** 16-10-105
19 as follows:

20 **16-10-105. Alternate jurors.** The court may direct that a
21 sufficient number of jurors in addition to the regular jury be called and
22 impaneled to sit as Alternate jurors. Alternate jurors in the order in which
23 they are called shall replace jurors who, prior to the time the jury retires
24 to consider its verdict, become unable or disqualified to perform their
25 duties. Alternate jurors shall be drawn in the same manner, shall have the
26 same qualifications, shall be subject to the same examination and
27 challenges, shall take the same oath, and shall have the same functions,

1 powers, facilities, and privileges as the regular jurors. An alternate juror
2 shall be discharged when the jury retires to consider its verdict or at such
3 time as determined by the court. When alternate jurors are impaneled,
4 each side is entitled to one peremptory challenge in addition to those
5 otherwise allowed by law. In a case in which a class 1, 2, or 3 felony, as
6 described in section 18-1.3-401 (1) (a) (IV) and (1) (a) (V), C.R.S., is
7 charged, AND IN A CASE IN WHICH A LEVEL 1 OR LEVEL 2 DRUG FELONY AS
8 DESCRIBED IN SECTION 18-1.3-401.5, C.R.S., and in any case in which a
9 felony listed in section 24-4.1-302 (1), C.R.S., is charged, the court shall
10 impanel at least one juror to sit as an alternate if requested by any party.

11 **SECTION 43.** In Colorado Revised Statutes, 16-11-209, **amend**
12 (1), (2) introductory portion, (2) (b), and (3) (c) as follows:

13 **16-11-209. Duties of probation officers.** (1) It is the duty of a
14 probation officer to investigate and report upon any case referred to him
15 by the court for investigation. The probation officer shall furnish to each
16 person released on probation under his supervision a written statement of
17 the conditions of probation and shall instruct him regarding the same.
18 The officer shall keep informed concerning the conduct and condition of
19 each person on probation under his supervision and shall report thereon
20 to the court at such times as it directs. Such officers shall use all suitable
21 methods, not inconsistent with the conditions imposed by the court, to aid
22 persons on probation and to bring about improvement in their conduct
23 and condition. Each officer shall keep records of his OR HER work; ~~shall~~
24 ~~keep accurate and complete accounts of all moneys collected from~~
25 ~~persons under his supervision; shall give receipts therefor and shall make~~
26 ~~at least monthly returns thereof into the registry of the court or as he may~~
27 ~~be ordered;~~ shall make such reports to the court as are required; and shall

1 perform such other duties as the court may direct.

2 (2) Any probationer, on probation as a result of a conviction, of
3 ~~any felony except a class 1 felony~~, who is under the supervision of a
4 probation officer pursuant to this part 2 and who is initially tested for the
5 illegal or unauthorized use of a controlled substance and the result of
6 such test is positive shall be subject to any or all of the following actions:

7 (b) An immediate increase in the level of supervision; ~~including~~
8 ~~but not limited to intensive supervision~~;

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

13 (c) Immediately increase the level of supervision; ~~including but~~
14 ~~not limited to intensive supervision~~;

15 **SECTION 44.** In Colorado Revised Statutes, 17-2-103, **amend**
16 (11) (b) (III) and (11) (b) (III.5) as follows:

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

18 (11) (b) (III) If the board determines that the parolee has violated any
19 condition of parole that does not involve the commission of a crime, the
20 parolee has no active felony warrant, felony detainer, or pending felony
21 criminal charge, and the parolee was on parole for an offense that was A
22 LEVEL 4 DRUG FELONY OR class 5 or class 6 nonviolent felony as defined
23 in section 17-22.5-405 (5) (b), except for menacing as defined in section
24 18-3-206, C.R.S., or any unlawful sexual behavior contained in section
25 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of
26 title 18, C.R.S., or section 18-6-801, C.R.S., the board may revoke parole
27 for a period not to exceed one hundred eighty days and request the sheriff

1 of the county in which the hearing is held to transport the parolee to the
2 facility described in section 17-1-206.5 (3).

3 (III.5) If the board determines that the parolee has violated any
4 condition of parole that does not involve the commission of a crime, the
5 parolee has no active felony warrant, felony detainer, or pending felony
6 criminal charge, and the parolee was on parole for an offense that was A
7 LEVEL 3 DRUG FELONY OR a class 4 nonviolent felony as defined in
8 section 17-22.5-405 (5) (b), except for stalking as described in section
9 18-9-111 (4), C.R.S., as it existed prior to August 11, 2010, or section
10 18-3-602, C.R.S., or any unlawful sexual behavior described in section
11 16-22-102 (9), C.R.S., or unless the parolee was subject to article 6.5 of
12 title 18, C.R.S., or section 18-6-801, C.R.S., and the board revokes
13 parole, the board may request the sheriff of the county in which the
14 hearing is held to transport the parolee to the facility described in section
15 17-1-206.5 (3) for a period not to exceed one hundred eighty days.

16 **SECTION 45.** In Colorado Revised Statutes, 17-2-201, **amend**
17 (3) (h.1) (I) as follows:

18 **17-2-201. State board of parole.** (3) The chairperson, in
19 addition to other provisions of law, has the following powers and duties:

20 (h.1) To contract with qualified individuals to serve as release
21 hearing officers:

22 (I) To conduct parole application hearings for inmates convicted
23 of class 4, class 5, or class 6 felonies OR LEVEL 3 OR LEVEL 4 DRUG
24 FELONIES who have been assessed to be less than high risk by the
25 Colorado risk assessment scale developed pursuant to section
26 17-22.5-404 (2) (a), C.R.S., pursuant to rules adopted by the parole
27 board; and

1 **SECTION 46.** In Colorado Revised Statutes, **amend** 17-2-213
2 as follows:

3 **17-2-213. Application of part.** Effective July 1, 1979, the
4 provisions of this part 2 relating to the power of the state board of parole
5 to grant parole and to establish the duration of the term of parole shall
6 apply only to persons sentenced for conviction of a felony committed
7 prior to July 1, 1979, persons sentenced for conviction of a misdemeanor,
8 persons sentenced for conviction of a sex offense, as defined in section
9 18-1.3-903 (5), C.R.S., or a class 1 felony, and persons sentenced as
10 habitual criminals pursuant to section 18-1.3-801, C.R.S. Parole for
11 persons sentenced for conviction of a class 2, class 3, class 4, or class 5
12 felony committed on or after July 1, 1979, OR A LEVEL 1, LEVEL 2, LEVEL
13 3, OR LEVEL 4 DRUG FELONY COMMITTED ON OR AFTER JULY 1, 2013, shall
14 be as provided in ~~section~~ SECTIONS 18-1.3-401 AND 18-1.3-401.5, C.R.S.,
15 and article 22.5 of this title.

16 **SECTION 47.** In Colorado Revised Statutes, 17-22.5-403,
17 **amend** (1), (7) (a), and (8) (a) as follows:

18 **17-22.5-403. Parole eligibility.** (1) Any person sentenced for a
19 class 2, class 3, class 4, class 5, or class 6 felony, OR A LEVEL 1, LEVEL 2,
20 LEVEL 3, OR LEVEL 4 DRUG FELONY, or any unclassified felony, shall be
21 eligible for parole after such person has served fifty percent of the
22 sentence imposed upon such person, less any time authorized for earned
23 time granted pursuant to section 17-22.5-405. However, the date
24 established by this subsection (1) upon which any person shall be eligible
25 for parole may be extended by the executive director for misconduct
26 during incarceration. The executive director shall promulgate rules and
27 regulations concerning when and under what conditions any inmate's

1 parole eligibility date may be extended. Such rules and regulations shall
2 be promulgated in such a manner as to promote fairness and consistency
3 in the treatment of all inmates.

4 (7) (a) For any offender who is incarcerated for an offense
5 committed on or after July 1, 1993, upon application for parole, the state
6 board of parole, working in conjunction with the department and using
7 the guidelines established pursuant to section 17-22.5-404, shall
8 determine whether or not to grant parole. The state board of parole, if it
9 determines that placing an offender on parole is appropriate, shall set the
10 length of the period of parole at the mandatory period of parole
11 established in section 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a),
12 C.R.S., except as otherwise provided for specified offenses in section
13 17-2-201 (5) (a), (5) (a.5), and (5) (a.7). If an application for parole is
14 refused by the state board of parole, the state board of parole shall
15 reconsider within one year thereafter whether such inmate should be
16 granted parole. The state board of parole shall continue such
17 reconsideration each year thereafter until such inmate is granted parole
18 or until such inmate is discharged pursuant to law; except that, if the
19 inmate applying for parole was convicted of any sex offense, as defined
20 in section 18-1.3-1003 (5), C.R.S., a habitual criminal offense as defined
21 in section 18-1.3-801 (2.5), C.R.S., or of any offense subject to the
22 requirements of section 18-1.3-904, C.R.S., the board need only
23 reconsider granting parole to such inmate once every three years, until the
24 board grants such inmate parole or until such inmate is discharged
25 pursuant to law, or if the person applying for parole was convicted of a
26 class 2 felony that constitutes a crime of violence, as defined in section
27 18-1.3-406, C.R.S., the board need only reconsider granting parole to

1 such person once every five years, until the board grants such person
2 parole or until such person is discharged pursuant to law.

3 (8) (a) For persons who are granted parole pursuant to paragraph
4 (a) of subsection (7) of this section, the division of adult parole shall
5 provide parole supervision and assistance in securing employment,
6 housing, and such other services as may affect the successful
7 reintegration of such offender into the community while recognizing the
8 need for public safety. The conditions for parole for any such offender
9 under this paragraph (a) shall be established pursuant to section
10 17-22.5-404 by the state board of parole prior to such offender's release
11 from incarceration. Upon a determination that the conditions of parole
12 have been violated in a parole revocation proceeding, the state board of
13 parole shall continue the parole in effect, modify the conditions of parole
14 if circumstances then shown to exist require such modifications, which
15 circumstances shall be set forth in writing, or revoke the parole and order
16 the return of the offender to a place of confinement designated by the
17 executive director for any period of time up to the period remaining on
18 such person's mandatory period of parole established in section
19 18-1.3-401 (1) (a) (V) OR 18-1.3-401.5 (2) (a), C.R.S. Any offender who
20 has been reincarcerated due to a parole revocation pursuant to this
21 paragraph (a) shall be eligible for parole at any time during such
22 reincarceration. The state board of parole may discharge an offender
23 granted parole under this section at any time during the term of parole
24 upon a determination that the offender has been sufficiently rehabilitated
25 and reintegrated into society and can no longer benefit from parole
26 supervision. In making any such determination, the state board of parole
27 shall make written findings as to why such offender is no longer in need

1 of parole supervision.

2 **SECTION 48.** In Colorado Revised Statutes, 17-22.5-404,
3 **amend** (3) as follows:

4 **17-22.5-404. Parole guidelines.** (3) For a person sentenced for
5 a class 2, class 3, class 4, class 5, or class 6 felony OR LEVEL 1, LEVEL 2,
6 LEVEL 3, OR LEVEL 4 DRUG FELONY who is eligible for parole pursuant to
7 section 17-22.5-403, or a person who is eligible for parole pursuant to
8 section 17-22.5-403.7, the state board of parole may consider all
9 applications for parole, as well as all persons to be supervised under any
10 interstate compact. The state board of parole may parole any person who
11 is sentenced or committed to a correctional facility when the board
12 determines, by using, where available, evidence-based practices and the
13 guidelines established by this section, that there is a reasonable
14 probability that the person will not violate the law while on parole and
15 that the person's release from institutional custody is compatible with
16 public safety and the welfare of society. The state board of parole shall
17 first consider the risk of reoffense in every release decision it makes.

18 **SECTION 49.** In Colorado Revised Statutes, 17-22.5-405,
19 **amend** (1.5) (a) (I) and (6) introductory portion as follows:

20 **17-22.5-405. Earned time - earned release time - achievement**
21 **earned time.** (1.5) (a) Earned time, not to exceed twelve days for each
22 month of incarceration or parole, may be deducted from an inmate's
23 sentence if the inmate:

24 (I) Is serving a sentence for a class 4, class 5, or class 6 felony OR
25 LEVEL 3 OR LEVEL 4 DRUG FELONY;

26 (6) Earned release time shall be scheduled by the state board of
27 parole and the time computation unit in the department of corrections for

1 inmates convicted of class 4 and class 5 felonies OR A LEVEL 3 DRUG
2 FELONY up to sixty days prior to the mandatory release date and for
3 inmates convicted of class 6 felonies OR LEVEL 4 DRUG FELONY up to
4 thirty days prior to the mandatory release date for inmates who meet the
5 following criteria:

6 **SECTION 50.** In Colorado Revised Statutes, 18-1-711, **amend**
7 (3) (c), (3) (d), and (3) (e) as follows:

8 **18-1-711. Immunity for persons who suffer or report an**
9 **emergency drug or alcohol overdose event - definitions.** (3) The
10 immunity described in subsection (1) of this section shall apply to the
11 following criminal offenses:

12 (c) Unlawful possession of two ounces or less of marijuana, as
13 described in ~~section 18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I); or more
14 than two ounces of marijuana but no more than six ounces of marijuana,
15 as described in ~~section 18-18-406 (4) (a)~~ SECTION 18-18-406 (4) (c); or
16 more than six ounces of marijuana but no more than twelve ounces of
17 marijuana or three ounces or less of marijuana concentrate as described
18 in section 18-18-406 (4) (b);

19 (d) Open and public display, consumption, or use of less than two
20 ounces of marijuana as described in ~~section 18-18-406 (3) (a) (I)~~ SECTION
21 18-18-406 (5) (b) (I);

22 (e) Transferring or dispensing two ounces or less of marijuana
23 from one person to another for no consideration, as described in ~~section~~
24 ~~18-18-406 (5)~~ SECTION 18-18-406 (5) (c);

25 **SECTION 51.** In Colorado Revised Statutes, 18-1.3-104, **amend**
26 (1) (b); and **repeal** (2) (b) as follows:

27 **18-1.3-104. Alternatives in imposition of sentence.** (1) Within

1 the limitations of the applicable statute pertaining to sentencing and
2 subject to the provisions of this title, the trial court has the following
3 alternatives in entering judgment imposing a sentence:

4 (b) Subject to the provisions of section 18-1.3-401, in class 2,
5 class 3, class 4, class 5, and class 6 felonies AND SECTION 18-1.3-401.5
6 FOR LEVEL 1, LEVEL 2, LEVEL 3, AND LEVEL 4 DRUG FELONIES, the
7 defendant may be sentenced to imprisonment for a definite period of
8 time.

9 (2) ~~(b) A nonviolent offender may be granted probation pursuant~~
10 ~~to paragraph (a) of subsection (1) of this section and, as a condition of~~
11 ~~probation, be required to participate in an intensive supervision program~~
12 ~~pursuant to section 18-1.3-208.~~

13 **SECTION 52.** In Colorado Revised Statutes, 18-1.3-201, **amend**
14 (3) as follows:

15 **18-1.3-201. Application for probation.** (3) An application for
16 probation shall be in writing upon forms furnished by the court, but,
17 when the defendant has been convicted of a misdemeanor or a ~~class 1~~
18 ANY petty offense, the court, in its discretion, may waive the written
19 application for probation.

20 **SECTION 53.** In Colorado Revised Statutes, 18-19-103, **amend**
21 (1) and (2) as follows:

22 **18-19-103. Source of revenues - allocation of moneys.** (1) For
23 offenses committed on and after July 1, 1996, each drug offender who is
24 convicted, or receives a deferred sentence pursuant to section 18-1.3-102,
25 shall be required to pay a surcharge to the clerk of the court in the county
26 in which the conviction occurs or in which the deferred sentence is
27 entered. Such surcharge shall be in the following amounts:

1 (a) For each class 2 felony OR LEVEL 1 DRUG FELONY of which a
2 person is convicted, four thousand five hundred dollars;

3 (b) For each class 3 felony OR LEVEL 2 DRUG FELONY of which a
4 person is convicted, three thousand dollars;

5 (c) For each class 4 felony OR LEVEL 3 DRUG FELONY of which a
6 person is convicted, two thousand dollars;

7 (d) For each class 5 felony OR LEVEL 4 DRUG FELONY of which a
8 person is convicted, one thousand five hundred dollars;

9 (e) For each class 6 felony of which a person is convicted, one
10 thousand two hundred fifty dollars;

11 (f) For each class 1 misdemeanor or LEVEL 1 DRUG MISDEMEANOR
12 of which a person is convicted, one thousand dollars;

13 (g) For each class 2 misdemeanor of which a person is convicted,
14 six hundred dollars;

15 (h) For each class 3 misdemeanor OR LEVEL 2 DRUG
16 MISDEMEANOR of which a person is convicted, three hundred dollars.

17 (2) Each drug offender convicted of a violation of ~~section~~
18 ~~18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), or who receives a deferred
19 sentence pursuant to section 18-1.3-102 for a violation of ~~section~~
20 ~~18-18-406 (1)~~ SECTION 18-18-406 (5) (a) (I), shall be assessed a
21 surcharge of two hundred dollars.

22 **SECTION 54.** In Colorado Revised Statutes, 19-2-104, **amend**
23 (1) (a) (I) and (5) as follows:

24 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
25 the juvenile court shall have exclusive original jurisdiction in
26 proceedings:

27 (a) Concerning any juvenile ten years of age or older who has

1 violated:

2 (I) Any federal or state law, except nonfelony state traffic, game
3 and fish, and parks and recreation laws or rules, the offenses specified in
4 section 18-13-121, C.R.S., concerning tobacco products, the offense
5 specified in section 18-13-122, C.R.S., concerning the illegal possession
6 or consumption of ethyl alcohol by an underage person, and the offenses
7 specified in section 18-18-406 ~~(+)~~ (5) (a) (I), (5) (b) (I), and (5) (b) (II)
8 ~~and (3)~~; C.R.S., concerning marijuana and marijuana concentrate;

9 (5) Notwithstanding any other provision of this section to the
10 contrary, the juvenile court and the county court shall have concurrent
11 jurisdiction over a juvenile who is under eighteen years of age and who
12 is charged with a violation of section 18-13-122, 18-18-406 ~~(+)~~ (5) (a) (I),
13 (5) (b) (I), and (5) (b) (II) ~~and (3)~~; 18-18-428, 18-18-429, 18-18-430, or
14 42-4-1301, C.R.S.; except that, if the juvenile court accepts jurisdiction
15 over such a juvenile, the county court jurisdiction shall terminate.

16 **SECTION 55.** In Colorado Revised Statutes, 20-1-111, **add** (4)
17 as follows:

18 **20-1-111. District attorneys may cooperate or contract -**
19 **contents.** (4) THE STATEWIDE ORGANIZATION REPRESENTING DISTRICT
20 ATTORNEYS OR ANY OTHER ORGANIZATION ESTABLISHED PURSUANT TO
21 THIS ARTICLE, MAY RECEIVE, MANAGE, AND EXPEND STATE FUNDS IN THE
22 MANNER PRESCRIBED BY THE GENERAL ASSEMBLY ON BEHALF OF THE
23 DISTRICT ATTORNEYS WHO ARE MEMBERS OF THE ORGANIZATION.

24 **SECTION 56.** In Colorado Revised Statutes, 24-72-308.6, **add**
25 (2) (a) (II.5) and (2) (a) (III.5) as follows:

26 **24-72-308.6. Sealing of criminal conviction records**
27 **information for offenses involving controlled substances for**

1 **convictions entered on or after July 1, 2011. (2) Sealing of conviction**

2 **records.** (a) (II.5) (A) IF THE OFFENSE IS A PETTY DRUG OFFENSE IN
3 ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED ONE YEAR
4 AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL
5 CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF
6 THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL
7 CONVICTION.

8 (B) IF THE OFFENSE IS A LEVEL 2 OR LEVEL 3 DRUG MISDEMEANOR
9 IN ARTICLE 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED THREE
10 YEARS AFTER THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL
11 CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF
12 THE DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL
13 CONVICTION.

14 (C) IF THE OFFENSE IS A LEVEL 1 DRUG MISDEMEANOR IN ARTICLE
15 18 OF TITLE 18, C.R.S., THE PETITION MAY BE FILED FIVE YEARS AFTER
16 THE LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
17 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE
18 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

19 (D) IF THE OFFENSE IS A LEVEL 4 DRUG FELONY, THE PETITION MAY
20 BE FILED SEVEN YEARS AFTER THE LATER OF THE DATE OF THE FINAL
21 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST THE DEFENDANT OR
22 THE RELEASE OF THE DEFENDANT FROM SUPERVISION CONCERNING A
23 CRIMINAL CONVICTION.

24 (E) FOR ALL OTHER FELONY DRUG OFFENSES IN ARTICLE 18 OF
25 TITLE 18, C.R.S., THE PETITION MAY BE FILED TEN YEARS AFTER THE
26 LATER OF THE DATE OF THE FINAL DISPOSITION OF ALL CRIMINAL
27 PROCEEDINGS AGAINST THE DEFENDANT OR THE RELEASE OF THE

1 DEFENDANT FROM SUPERVISION CONCERNING A CRIMINAL CONVICTION.

2 (III.5) (A) IF A PETITION IS FILED FOR THE SEALING OF A PETTY
3 DRUG OFFENSE IN ARTICLE 18 OF TITLE 18, C.R.S., THE COURT SHALL
4 ORDER THE RECORD SEALED AFTER THE PETITION IS FILED, THE FILING FEE
5 IS PAID, AND THE CRIMINAL HISTORY FILED WITH THE PETITION AS
6 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) DOCUMENTS TO
7 THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR
8 CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
9 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR
10 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
11 WHICHEVER IS LATER.

12 (B) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 1, LEVEL
13 2, OR LEVEL 3 DRUG MISDEMEANOR IN ARTICLE 18 OF TITLE 18, C.R.S.,
14 THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
15 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY
16 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
17 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE
18 COURT SHALL ORDER THAT THE RECORD BE SEALED AFTER THE
19 DEFENDANT DOCUMENTS TO THE COURT THAT HE OR SHE HAS NOT BEEN
20 CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF
21 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
22 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
23 WHICHEVER IS LATER. IF THE DISTRICT ATTORNEY OBJECTS TO THE
24 PETITION, THE COURT SHALL SET THE MATTER FOR HEARING. TO ORDER
25 THE RECORD SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS
26 REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT
27 TO THE COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED WITH OR

1 CONVICTED OF A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL
2 DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR
3 SINCE THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
4 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER
5 CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

6 (C) IF A PETITION IS FILED FOR THE SEALING OF A LEVEL 4 DRUG
7 FELONY POSSESSION OFFENSE DESCRIBED IN SECTION 18-18-403.5, C.R.S.,
8 THE DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
9 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY
10 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
11 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY DOES NOT OBJECT, THE
12 COURT MAY DECIDE THE PETITION WITH OR WITHOUT THE BENEFIT OF A
13 HEARING. IF THE DISTRICT ATTORNEY OBJECTS TO THE PETITION, THE
14 COURT SHALL SET THE MATTER FOR HEARING. TO ORDER THE RECORD
15 SEALED, THE CRIMINAL HISTORY FILED WITH THE PETITION AS REQUIRED
16 BY PARAGRAPH (b) OF THIS SUBSECTION (2) MUST DOCUMENT TO THE
17 COURT THAT THE DEFENDANT HAS NOT BEEN CHARGED OR CONVICTED FOR
18 A CRIMINAL OFFENSE SINCE THE DATE OF THE FINAL DISPOSITION OF ALL
19 CRIMINAL PROCEEDINGS AGAINST HIM OR HER OR SINCE THE DATE OF THE
20 DEFENDANT'S RELEASE FROM SUPERVISION, WHICHEVER IS LATER. THE
21 COURT SHALL DECIDE THE PETITION AFTER CONSIDERING THE FACTORS IN
22 SECTION 24-72-308.5 (2) (c).

23 (D) IF A PETITION IS FILED FOR ANY OTHER FELONY DRUG OFFENSE
24 IN ARTICLE 18 OF TITLE 18, C.R.S., THAT IS NOT COVERED BY
25 SUB-SUBPARAGRAPHS (A) TO (C) OF THIS SUBPARAGRAPH (III.5), THE
26 DEFENDANT SHALL PAY THE FILING FEE AND PROVIDE NOTICE OF THE
27 PETITION TO THE DISTRICT ATTORNEY. THE DISTRICT ATTORNEY MAY

1 OBJECT TO THE PETITION AFTER CONSIDERING THE FACTORS IN SECTION
2 24-72-308.5 (2) (c). IF THE DISTRICT ATTORNEY OBJECTS TO THE
3 PETITION, THE COURT SHALL DISMISS THE PETITION. IF THE DISTRICT
4 ATTORNEY DOES NOT OBJECT, THE COURT SHALL SET THE PETITION FOR A
5 HEARING. TO ORDER THE RECORD SEALED, THE CRIMINAL HISTORY FILED
6 WITH THE PETITION AS REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION
7 (2) MUST DOCUMENT TO THE COURT THAT THE DEFENDANT HAS NOT BEEN
8 CHARGED OR CONVICTED FOR A CRIMINAL OFFENSE SINCE THE DATE OF
9 THE FINAL DISPOSITION OF ALL CRIMINAL PROCEEDINGS AGAINST HIM OR
10 HER OR THE DATE OF THE DEFENDANT'S RELEASE FROM SUPERVISION,
11 WHICHEVER IS LATER. THE COURT SHALL DECIDE THE PETITION AFTER
12 CONSIDERING THE FACTORS IN SECTION 24-72-308.5 (2) (c).

13 **SECTION 57.** In Colorado Revised Statutes, **add** 18-18-606 as
14 follows:

15 **18-18-606. Drug case data collection.** (1) THE DIVISION OF
16 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL COLLECT
17 THE DATA SPECIFIED IN SUBSECTION (2) OF THIS SECTION FOR THE PERIOD
18 BETWEEN OCTOBER 1, 2013, AND SEPTEMBER 30, 2016, AND ISSUE A
19 REPORT BY DECEMBER 31, 2016, ON THE IMPACT OF SENATE BILL
20 13-____, ENACTED IN 2013.

- 21 (2) THE DATA MUST INCLUDE, BUT IS NOT LIMITED TO:
- 22 (a) THE NATURE OF THE CHARGES FILED BY JURISDICTION;
- 23 (b) ALL DEMOGRAPHIC INFORMATION ON THE DEFENDANTS; AND
- 24 (c) OUTCOME DATA ON THE CHARGES, INCLUDING:
- 25 (I) DISMISSAL;
- 26 (II) DIVERSION;
- 27 (III) DEFERRED JUDGMENT;

- 1 (IV) MISDEMEANOR PLEA;
- 2 (V) FELONY PLEA;
- 3 (VI) TOTAL PLEA AGREEMENT;
- 4 (VII) COURT SENTENCE;
- 5 (VIII) SENTENCE AGREEMENT BY DISTRICT ATTORNEY, IF ANY;
- 6 (IX) OTHER CASES DISMISSED OR PLED TO IN A PLEA AGREEMENT;
- 7 (X) PRIOR CRIMINAL HISTORY FOR FELONIES;
- 8 (XI) REVOCATION OF PROBATION OR COMMUNITY CORRECTIONS;
- 9 (XII) COURT RESENTENCE; AND
- 10 (XIII) WHETHER THE CASE WAS CONVERTED TO A MISDEMEANOR
- 11 UPON SUCCESSFUL COMPLETION PURSUANT TO SECTION 18-1.3-103.5 (2).

12 **SECTION 58.** In Colorado Revised Statutes, 12-64-111, **amend**
13 (1) (p) as follows:

14 **12-64-111. Discipline of licensees.** (1) Upon receipt of a signed
15 complaint by a complainant or upon its own motion, the board may
16 proceed to a hearing in conformity with section 12-64-112. After a
17 hearing, and by a concurrence of a majority of members, the board may
18 deny a license to an applicant or revoke or suspend the license of, place
19 on probation, or otherwise discipline or fine, a licensed veterinarian for
20 any of the following reasons:

21 (p) Conviction of a violation of the "Uniform Controlled
22 Substances Act of ~~1992~~ 2013", article 18 of title 18, C.R.S., the federal
23 "Controlled Substances Act", or the federal "Controlled Substances
24 Import and Export Act", or any of them;

25 **SECTION 59.** In Colorado Revised Statutes, **amend** 18-18-602
26 as follows:

27 **18-18-602. Continuation of rules - application to existing**

1 **relationships.** Any orders and rules adopted under any law affected by
2 this article and in effect on July 1, 1992, and not in conflict with this
3 article continue in effect until modified, superseded, or repealed. Rights
4 and duties that matured, penalties that were incurred, and proceedings
5 that were begun prior to July 1, 1992, are not affected by the enactment
6 of the "Uniform Controlled Substances Act of ~~1992~~ 2013" or the
7 corresponding repeal of provisions in article 42.5 of title 12, C.R.S., and
8 part 6 of article 5 of this title.

9 **SECTION 60.** In Colorado Revised Statutes, **amend** 18-18-604
10 as follows:

11 **18-18-604. Uniformity of interpretation.** To the extent that this
12 article is uniform, the judiciary may look to decisions regarding the
13 "Uniform Controlled Substances Act of ~~1990~~ 2013" among states
14 enacting it, subject to rights and obligations provided under other
15 Colorado statutes and the state constitution.

16 **SECTION 61.** In Colorado Revised Statutes, 25-1.5-302, **amend**
17 (1) (b) as follows:

18 **25-1.5-302. Administration of medications - powers and duties**
19 **of department - criminal history record checks.** (1) The department
20 has, in addition to all other powers and duties imposed upon it by law, the
21 power and duty to establish and maintain by rule and regulation a
22 program for the administration of medications in facilities, which
23 program shall be developed and conducted by the department of human
24 services and the department of corrections, as provided in this part 3,
25 within the following guidelines:

26 (b) Any individual who is not otherwise authorized by law to
27 administer medication in a facility shall be allowed to perform such

1 duties only after passing a competency evaluation. An individual who
2 administers medications in facilities in compliance with the provisions of
3 this part 3 shall be exempt from the licensing requirements of the
4 "Colorado Medical Practice Act", the "Nurse Practice Act", and the laws
5 of this state pertaining to possession of controlled substances as
6 contained in article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27,
7 C.R.S., or the "Uniform Controlled Substances Act of ~~1992~~ 2013", article
8 18 of title 18, C.R.S.

9 **SECTION 62.** In Colorado Revised Statutes, 24-72-308.6, **amend**
10 (2) (a) (II) (C) and (2) (a) (III) (C) as follows:

11 **24-72-308.6. Sealing of criminal conviction records**
12 **information for offenses involving controlled substances for**
13 **convictions entered on or after July 1, 2011. (2) Sealing of conviction**
14 **records.** (a) (II) (C) If the offense is a class 5 felony or class 6 felony
15 drug possession offense described in section 18-18-403.5, C.R.S., AS IT
16 EXISTED PRIOR TO THE EFFECTIVE DATE OF SENATE BILL 13-____, ENACTED
17 IN 2013, or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as it existed
18 prior to August 11, 2010, the petition may be filed seven years after the
19 later of the date of the final disposition of all criminal proceedings
20 against the defendant or the release of the defendant from supervision
21 concerning a criminal conviction.

22 (III) (C) If a petition is filed for the sealing of a class 5 or class 6
23 felony possession offense described in section 18-18-403.5, C.R.S., AS IT
24 EXISTED PRIOR TO THE EFFECTIVE DATE OF SENATE BILL 13-____, ENACTED
25 IN 2013, or 18-18-404, C.R.S., or section 18-18-405, C.R.S., as it existed
26 prior to August 11, 2010, the defendant shall pay the filing fee and
27 provide notice of the petition to the district attorney. The district attorney

1 shall determine whether to object to the petition after considering the
2 factors in section 24-72-308.5 (2) (c). If the district attorney does not
3 object, the court may decide the petition with or without the benefit of a
4 hearing. If the district attorney objects to the petition, the court shall set
5 the matter for hearing. To order the record sealed, the criminal history
6 filed with the petition as required by paragraph (b) of this subsection (2)
7 shall document to the court that the defendant has not been charged or
8 convicted for a criminal offense since the date of the final disposition of
9 all criminal proceedings against him or her or since the date of the
10 defendant's release from supervision, whichever is later. The court shall
11 decide the petition after considering the factors in section 24-72-308.5 (2)
12 (c).

13 **SECTION 63. Potential appropriation.** Pursuant to section
14 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
15 in periods of imprisonment in the state correctional facilities must include
16 an appropriation of moneys that is sufficient to cover any increased
17 capital construction and operational costs for the first five fiscal years in
18 which there is a fiscal impact. Because this act may increase periods of
19 imprisonment, this act may require a five-year appropriation.

20 **SECTION 64. Effective date - applicability.** This act takes
21 effect October 1, 2013, and applies to offenses committed on or after said
22 date.

23 **SECTION 65. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.