

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB21-124 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3           **"SECTION 1.** In Colorado Revised Statutes, 18-3-102, **repeal**  
4 (1)(b) and (2) as follows:

5           **18-3-102. Murder in the first degree.** (1) A person commits the  
6 crime of murder in the first degree if:

7           ~~(b) Acting either alone or with one or more persons, he or she~~  
8 ~~commits or attempts to commit arson, robbery, burglary, kidnapping,~~  
9 ~~sexual assault as prohibited by section 18-3-402, sexual assault in the first~~  
10 ~~or second degree as prohibited by section 18-3-402 or 18-3-403 as those~~  
11 ~~sections existed prior to July 1, 2000, or a class 3 felony for sexual assault~~  
12 ~~on a child as provided in section 18-3-405 (2), or the crime of escape as~~  
13 ~~provided in section 18-8-208, and, in the course of or in furtherance of the~~  
14 ~~crime that he or she is committing or attempting to commit, or of~~  
15 ~~immediate flight therefrom, the death of a person, other than one of the~~  
16 ~~participants, is caused by anyone; or~~

17           ~~(2) It is an affirmative defense to a charge of violating subsection~~  
18 ~~(1)(b) of this section that the defendant:~~

19           ~~(a) Was not the only participant in the underlying crime; and~~

20           ~~(b) Did not commit the homicidal act or in any way solicit,~~  
21 ~~request, command, importune, cause, or aid the commission thereof; and~~

22           ~~(c) Was not armed with a deadly weapon; and~~

23           ~~(d) Had no reasonable ground to believe that any other participant~~  
24 ~~was armed with such a weapon, instrument, article, or substance; and~~

25           ~~(e) Did not engage himself in or intend to engage in and had no~~  
26 ~~reasonable ground to believe that any other participant intended to engage~~  
27 ~~in conduct likely to result in death or serious bodily injury; and~~

28           ~~(f) Endeavored to disengage himself from the commission of the~~  
29 ~~underlying crime or flight therefrom immediately upon having reasonable~~  
30 ~~grounds to believe that another participant is armed with a deadly~~  
31 ~~weapon, instrument, article, or substance, or intended to engage in~~  
32 ~~conduct likely to result in death or serious bodily injury.~~

33           **SECTION 2.** In Colorado Revised Statutes, 18-3-103, **amend** (1);  
34 and **add** (1.5) as follows:

35           **18-3-103. Murder in the second degree - definitions.** (1) A  
36 person commits the crime of murder in the second degree if:

37           (a) The person knowingly causes the death of a person; OR

38           (b) ACTING EITHER ALONE OR WITH ONE OR MORE PERSONS, HE OR  
39 SHE COMMITS OR ATTEMPTS TO COMMIT FELONY ARSON, ROBBERY,

1 BURGLARY, KIDNAPPING, SEXUAL ASSAULT AS PROHIBITED BY SECTION  
2 18-3-402, SEXUAL ASSAULT IN THE FIRST OR SECOND DEGREE AS  
3 PROHIBITED BY SECTION 18-3-402 OR 18-3-403 AS THOSE SECTIONS  
4 EXISTED PRIOR TO JULY 1, 2000, OR A CLASS 3 FELONY FOR SEXUAL  
5 ASSAULT ON A CHILD AS PROVIDED IN SECTION 18-3-405 (2), OR THE  
6 FELONY CRIME OF ESCAPE AS PROVIDED IN SECTION 18-8-208, AND, IN THE  
7 COURSE OF OR IN FURTHERANCE OF THE CRIME THAT HE OR SHE IS  
8 COMMITTING OR ATTEMPTING TO COMMIT, OR OF IMMEDIATE FLIGHT  
9 THEREFROM, THE DEATH OF A PERSON, OTHER THAN ONE OF THE  
10 PARTICIPANTS, IS CAUSED BY ANY PARTICIPANT;

11 (1.5) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING  
12 SUBSECTION (1)(b) OF THIS SECTION THAT THE DEFENDANT:

13 (a) WAS NOT THE ONLY PARTICIPANT IN THE UNDERLYING CRIME;  
14 AND

15 (b) DID NOT COMMIT THE HOMICIDAL ACT OR IN ANY WAY SOLICIT,  
16 REQUEST, COMMAND, IMPORTUNE, CAUSE, OR AID THE COMMISSION  
17 THEREOF; AND

18 (c) WAS NOT ARMED WITH A DEADLY WEAPON; AND

19 (d) DID NOT ENGAGE HIMSELF OR HERSELF IN OR INTEND TO  
20 ENGAGE IN AND HAD NO REASONABLE GROUND TO BELIEVE THAT ANY  
21 OTHER PARTICIPANT INTENDED TO ENGAGE IN CONDUCT LIKELY TO RESULT  
22 IN DEATH OR SERIOUS BODILY INJURY.

23 **SECTION 3.** In Colorado Revised Statutes, 17-34-101, **amend**  
24 (1)(a)(II) and (1)(a)(III) as follows:

25 **17-34-101. Juveniles who are convicted as adults in district**  
26 **court - eligibility for specialized program placement - petitions.**

27 (1) (a) Notwithstanding any other provision of law, an offender serving  
28 a sentence in the department for a felony offense as a result of the filing  
29 of criminal charges by an information or indictment pursuant to section  
30 19-2-517, or the transfer of proceedings to the district court pursuant to  
31 section 19-2-518, or pursuant to either of these sections as they existed  
32 prior to their repeal and reenactment, with amendments, by House Bill  
33 96-1005, and who remains in the custody of the department for that  
34 felony offense may petition for placement in the specialized program  
35 described in section 17-34-102, referred to within this section as the  
36 "specialized program", as follows:

37 (II) If the felony of which the person was convicted was murder  
38 in the first degree, as described in section 18-3-102 (1)(b), AS IT EXISTED  
39 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(II) AS  
40 AMENDED, or (1)(d), ~~C.R.S.~~ OR MURDER IN THE SECOND DEGREE, AS  
41 DESCRIBED IN SECTION 18-3-103 (1)(b), then the offender may petition for  
42 placement in the specialized program after serving twenty years of his or  
43 her sentence if he or she satisfies the criteria described in

1 ~~sub-subparagraphs (A), (B), (C), (D), (E), (F), and (G) of subparagraph~~  
2 ~~(F) of this paragraph (a) SUBSECTIONS (1)(a)(I)(A) TO (1)(a)(I)(G) OF THIS~~  
3 SECTION.

4 (III) If the felony of which the person was convicted was murder  
5 in the first degree, as described in section 18-3-102, ~~C.R.S.~~, but was not  
6 murder in the first degree, as described in section 18-3-102 (1)(b), AS IT  
7 EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (1)(a)(III) AS  
8 AMENDED, or (1)(d), ~~C.R.S.~~ OR MURDER IN THE SECOND DEGREE, AS  
9 DESCRIBED IN SECTION 18-3-103 (1)(b), then the offender may petition for  
10 placement in the specialized program after serving twenty-five years of  
11 his or her sentence if he or she satisfies the criteria described in  
12 ~~sub-subparagraphs (A), (B), (C), (D), (E), (F), and (G) of subparagraph~~  
13 ~~(F) of this paragraph (a) SUBSECTIONS (1)(a)(I)(A) TO (1)(a)(I)(G) OF THIS~~  
14 SECTION.

15 **SECTION 4.** In Colorado Revised Statutes, 18-1.3-401, **amend**  
16 (4)(c)(I) as follows:

17 **18-1.3-401. Felonies classified - presumptive penalties.**

18 (4) (c) (I) Notwithstanding ~~the provisions of sub-subparagraph (A) of~~  
19 ~~subparagraph (V) of paragraph (a) of subsection (1) of this section and~~  
20 ~~notwithstanding the provisions of paragraphs (a) and (b) of this~~  
21 ~~subsection (4) SUBSECTIONS (1)(a)(V)(A), (4)(a), AND (4)(b) OF THIS~~  
22 SECTION, as to a person who is convicted as an adult of a class 1 felony  
23 following a direct filing of an information or indictment in the district  
24 court pursuant to section 19-2-517, ~~C.R.S.~~, or transfer of proceedings to  
25 the district court pursuant to section 19-2-518, ~~C.R.S.~~, or pursuant to  
26 either of these sections as they existed prior to their repeal and  
27 reenactment, with amendments, by House Bill 96-1005, which felony was  
28 committed on or after July 1, 1990, and before July 1, 2006, and who  
29 received a sentence to life imprisonment without the possibility of parole:

30 (A) If the felony for which the person was convicted is murder in  
31 the first degree, as described in section 18-3-102 (1)(b), AS IT EXISTED  
32 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (4)(c)(I)(A) AS  
33 AMENDED, then the district court, after holding a hearing, may sentence  
34 the person to a determinate sentence within the range of thirty to fifty  
35 years in prison, less any earned time granted pursuant to section  
36 17-22.5-405, ~~C.R.S.~~, if, after considering the factors described in  
37 ~~subparagraph (H) of this paragraph (c) SUBSECTION (4)(c)(II) OF THIS~~  
38 SECTION, the district court finds extraordinary mitigating circumstances.  
39 Alternatively, the court may sentence the person to a term of life  
40 imprisonment with the possibility of parole after serving forty years, less  
41 any earned time granted pursuant to section 17-22.5-405. ~~C.R.S.~~

42 (B) If the felony for which the person was convicted is not murder  
43 in the first degree, as described in section 18-3-102 (1)(b), AS IT EXISTED

1 PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (4)(c)(I)(B) AS  
2 AMENDED, then the district court shall sentence the person to a term of life  
3 imprisonment with the possibility of parole after serving forty years, less  
4 any earned time granted pursuant to section 17-22.5-405. C.R.S.

5 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-407.5, **amend**  
6 (2)(b) as follows:

7 **18-1.3-407.5. Sentences - young adult offenders - youthful**  
8 **offender system - definitions.** (2) (b) Notwithstanding ~~the provisions of~~  
9 ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION,  
10 a young adult offender who is charged with first degree murder as  
11 described in section 18-3-102 (1)(b), AS IT EXISTED PRIOR TO THE  
12 EFFECTIVE DATE OF THIS SUBSECTION (2)(b) AS AMENDED, OR MURDER IN  
13 THE SECOND DEGREE AS DESCRIBED IN SECTION 18-3-103 (1)(b) and pleads  
14 guilty to a class 2 felony as a result of a plea agreement is eligible for  
15 sentencing to the youthful offender system if the young adult offender  
16 would be eligible for sentencing to the youthful offender system for a  
17 conviction of the felony underlying the charge of first degree murder as  
18 described in section 18-3-102 (1)(b), AS IT EXISTED PRIOR TO THE  
19 EFFECTIVE DATE OF THIS SUBSECTION (2)(b) AS AMENDED, OR MURDER IN  
20 THE SECOND DEGREE AS DESCRIBED IN SECTION 18-3-103 (1)(b).

21 **SECTION 6. Act subject to petition - effective date -**  
22 **applicability.** (1) This act takes effect September 15, 2021; except that,  
23 if a referendum petition is filed pursuant to section 1 (3) of article V of  
24 the state constitution against this act or an item, section, or part of this act  
25 within the ninety-day period after final adjournment of the general  
26 assembly, then the act, item, section, or part will not take effect unless  
27 approved by the people at the general election to be held in November  
28 2022 and, in such case, will take effect on the date of the official  
29 declaration of the vote thereon by the governor.

30 (2) This act applies to offenses committed on or after the  
31 applicable effective date of this act."

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