

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 13-0609.01 Richard Sweetman x4333

SENATE BILL 13-216

SENATE SPONSORSHIP

Giron,

HOUSE SPONSORSHIP

Rosenthal,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING YOUTHFUL OFFENDERS WITHIN THE STATE DEPARTMENT**
102 **OF CORRECTIONS.**

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>.)

The bill recreates and reenacts, with amendments, certain provisions relating to the sentencing of young adult offenders to the youthful offender system in the state department of corrections (department), which provisions were repealed on October 1, 2012. The provisions allow certain young adult offenders to be sentenced to the

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

SENATE
2nd Reading Unamended
April 12, 2013

youthful offender system. A "young adult offender" means a person who is at least 18 years of age but under 20 years of age at the time the crime is committed and under 21 years of age at the time of sentencing.

A young adult offender may be sentenced to the youthful offender system if he or she:

- ! Is convicted of a felony enumerated as a crime of violence;
- ! Is convicted of a felony involving a firearm;
- ! Used, or possessed and threatened the use of, a deadly weapon during the commission of a felony against a person;
- ! Is convicted of vehicular homicide, vehicular assault, or felonious arson;
- ! Is convicted of a class 3 felony other than sexual assault, and has, within the 2 previous years, been adjudicated a juvenile delinquent for a delinquent act that would constitute a felony if committed by an adult; or
- ! Is convicted of a felony offense and is determined to have been an habitual juvenile offender.

A young adult offender shall be ineligible for sentencing to the youthful offender system if he or she is convicted of any of the following:

- ! A class 1 or class 2 felony;
- ! A sexual offense, including incest or aggravated incest; or
- ! Any offense, if the young adult offender has received a sentence to the youthful offender system for any prior conviction.

A young adult offender who is charged with first degree murder and pleads guilty to a class 2 felony as a result of a plea agreement is eligible for sentencing to the youthful offender system if the young adult offender would be eligible for sentencing to the youthful offender system for a conviction of the felony underlying the charge of first degree murder.

On or before August 1, 2013, the department shall implement policies pursuant to the federal "Prison Rape Elimination Act of 2003", 42 U.S.C. 15601 et seq., to ensure compliance with certain provisions relating to youthful offenders.

On or before October 1, 2013, and on or before each October 1 thereafter, the department shall report to the judiciary committees of the house of representatives and senate concerning the implementation of the new policies within the youthful offender system.

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

2 **SECTION 1.** In Colorado Revised Statutes, **recreate and**

1 reenact, with amendments, 18-1.3-407.5 as follows:

2 **18-1.3-407.5. Sentences - young adult offenders - youthful**
3 **offender system - definitions.** (1) (a) A YOUNG ADULT OFFENDER MAY BE
4 SENTENCED TO THE YOUTHFUL OFFENDER SYSTEM IN THE DEPARTMENT OF
5 CORRECTIONS IN ACCORDANCE WITH SECTION 18-1.3-407, UNDER THE
6 FOLLOWING CIRCUMSTANCES:

7 (I) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY
8 ENUMERATED AS A CRIME OF VIOLENCE PURSUANT TO SECTION 18-1.3-406;

9 (II) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY
10 OFFENSE DESCRIBED IN PART 1 OF ARTICLE 12 OF THIS TITLE;

11 (III) THE YOUNG ADULT OFFENDER USED, OR POSSESSED AND
12 THREATENED THE USE OF, A DEADLY WEAPON DURING THE COMMISSION OF
13 A FELONY OFFENSE AGAINST A PERSON, AS SET FORTH IN ARTICLE 3 OF THIS
14 TITLE;

15 (IV) THE YOUNG ADULT OFFENDER IS CONVICTED OF VEHICULAR
16 HOMICIDE, AS DESCRIBED IN SECTION 18-3-106, VEHICULAR ASSAULT, AS
17 DESCRIBED IN SECTION 18-3-205, OR FELONIOUS ARSON, AS DESCRIBED IN
18 PART 1 OF ARTICLE 4 OF THIS TITLE;

19 (V) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY
20 OFFENSE DESCRIBED IN SECTION 18-1.3-401 AS A CLASS 3 FELONY, OTHER
21 THAN THE FELONIES DESCRIBED IN SECTION 18-3-402 (1) (d) AND SECTION
22 18-3-403 (1) (e), AS IT EXISTED PRIOR TO JULY 1, 2000, AND HAS, WITHIN
23 THE TWO PREVIOUS YEARS, BEEN ADJUDICATED A JUVENILE DELINQUENT
24 FOR A DELINQUENT ACT THAT WOULD CONSTITUTE A FELONY IF
25 COMMITTED BY AN ADULT; OR

26 (VI) THE YOUNG ADULT OFFENDER IS CONVICTED OF A FELONY
27 OFFENSE, AND IS DETERMINED TO HAVE BEEN AN "HABITUAL JUVENILE

1 OFFENDER", AS DEFINED IN SECTION 19-1-103 (61), C.R.S.

2 (b) THE OFFENSES DESCRIBED IN PARAGRAPH (a) OF THIS
3 SUBSECTION (1) SHALL INCLUDE THE ATTEMPT, CONSPIRACY, OR
4 SOLICITATION TO COMMIT SUCH OFFENSES.

5 (2) (a) NOTWITHSTANDING THE CIRCUMSTANCES DESCRIBED IN
6 SUBSECTION (1) OF THIS SECTION, A YOUNG ADULT OFFENDER SHALL BE
7 INELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE
8 YOUNG ADULT OFFENDER IS CONVICTED OF ANY OF THE FOLLOWING:

9 (I) A CLASS 1 OR CLASS 2 FELONY;

10 (II) A SEXUAL OFFENSE DESCRIBED IN SECTION 18-6-301, SECTION
11 18-6-302, OR PART 4 OF ARTICLE 3 OF THIS TITLE; OR

12 (III) ANY OFFENSE, IF THE YOUNG ADULT OFFENDER HAS RECEIVED
13 A SENTENCE TO THE YOUTHFUL OFFENDER SYSTEM FOR ANY PRIOR
14 CONVICTION.

15 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
16 THIS SUBSECTION (2), A YOUNG ADULT OFFENDER WHO IS CHARGED WITH
17 FIRST DEGREE MURDER AS DESCRIBED IN SECTION 18-3-102 (1) (b) AND
18 PLEADS GUILTY TO A CLASS 2 FELONY AS A RESULT OF A PLEA AGREEMENT
19 IS ELIGIBLE FOR SENTENCING TO THE YOUTHFUL OFFENDER SYSTEM IF THE
20 YOUNG ADULT OFFENDER WOULD BE ELIGIBLE FOR SENTENCING TO THE
21 YOUTHFUL OFFENDER SYSTEM FOR A CONVICTION OF THE FELONY
22 UNDERLYING THE CHARGE OF FIRST DEGREE MURDER AS DESCRIBED IN
23 SECTION 18-3-102 (1) (b).

24 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
25 REQUIRES, A "YOUNG ADULT OFFENDER" MEANS A PERSON WHO IS AT
26 LEAST EIGHTEEN YEARS OF AGE BUT UNDER TWENTY YEARS OF AGE AT THE
27 TIME THE CRIME IS COMMITTED AND UNDER TWENTY-ONE YEARS OF AGE

1 AT THE TIME OF SENTENCING PURSUANT TO THIS SECTION.

2 **SECTION 2.** In Colorado Revised Statutes, **add** 17-1-115.7 as
3 follows:

4 **17-1-115.7. Prevention of sexual assaults on youthful inmates**
5 **- compliance with federal law - report - definitions.** (1) ON OR BEFORE
6 AUGUST 20, 2013, THE DEPARTMENT SHALL IMPLEMENT POLICIES
7 PURSUANT TO THE FEDERAL "PRISON RAPE ELIMINATION ACT OF 2003",
8 42 U.S.C. 15601 ET SEQ., TO ENSURE COMPLIANCE WITH THE PROVISIONS
9 THEREOF RELATING TO YOUTHFUL INMATES, AS CODIFIED AT 28 CFR
10 115.14.

11 (2) ON OR BEFORE OCTOBER 1, 2013, AND ON OR BEFORE EACH
12 OCTOBER 1 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE
13 JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE,
14 OR ANY SUCCESSOR COMMITTEES, CONCERNING THE IMPLEMENTATION OF
15 THE POLICIES DESCRIBED IN SUBSECTION (1) OF THIS SECTION WITHIN THE
16 YOUTH OFFENDER SYSTEM DESCRIBED IN SECTION 18-1.3-407.5, C.R.S.

17 (3) AS USED IN THIS SECTION, "YOUTHFUL INMATE" MEANS ANY
18 PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO IS UNDER ADULT COURT
19 SUPERVISION AND INCARCERATED OR DETAINED IN A CORRECTIONAL
20 FACILITY.

21 **SECTION 3. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.