First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0283.01 Michael Dohr x4347 **HOUSE BILL 13-1270**

HOUSE SPONSORSHIP

Fields,

SENATE SPONSORSHIP

(None),

House Committees
Local Government
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REFERENDUM RELATED TO THE DEATH PENALTY.**

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 repeals the death penalty in Colorado and makes conforming amendments. The bill refers the question of repealing the death penalty to a vote of the people.

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

SECTION 1. In Colorado Revised Statutes, **add** part 9 to article 11 of title 16 as follows:

PART 9

REPEAL OF THE DEATH PENALTY

16-11-901. Death penalty repeal - applicability - current sentences. AS OF THE EFFECTIVE DATE OF THIS PART 9, FOR OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS PART 9, THE DEATH PENALTY SHALL NOT BE A SENTENCING OPTION FOR A DEFENDANT CONVICTED OF A CLASS 1 FELONY IN THE STATE OF COLORADO. NOTHING IN THIS SECTION SHALL COMMUTE OR ALTER THE SENTENCE OF A DEFENDANT CONVICTED BEFORE THE EFFECTIVE DATE OF THIS PART 9.

SECTION 2. In Colorado Revised Statutes, 16-4-101, **amend** (1) (a), (3), and (4) as follows:

16-4-101. Bailable offenses. (1) All persons shall be bailable by sufficient sureties except:

(a) For ~~capital offenses~~ CLASS 1 FELONIES when proof is evident or presumption is great; or

(3) In any ~~capital~~ case INVOLVING A CLASS 1 FELONY, the defendant may make a written motion for admission to bail upon the ground that the proof is not evident or that presumption is not great, and the court shall promptly conduct a hearing upon such motion. At such hearing, the burden shall be upon the people to establish that the proof is evident or that the presumption is great. The court may combine in a single hearing the questions as to whether the proof is evident or the presumption great with the determination of the existence of probable cause to believe that the defendant committed the crime charged.

(4) Except in the case of a ~~capital offense~~ CLASS 1 FELONY, if a

person is denied bail under this section, the trial of the person shall be commenced not more than ninety-one days after the date on which bail is denied. If the trial is not commenced within ninety-one days and the delay is not attributable to the defense, the court shall immediately schedule a bail hearing and shall set the amount of the bail for the person.

SECTION 3. In Colorado Revised Statutes, 16-4-201, **amend** (1) (a) as follows:

16-4-201. Bail after conviction. (1) (a) After conviction, either before or after sentencing, the defendant may orally, or in writing, move for release on bail pending determination of a motion for a new trial or motion in arrest of judgment or during any stay of execution or pending review by an appellate court, and, except in cases where the defendant has been convicted of a ~~capital offense~~ CLASS 1 FELONY, the trial court, in its discretion, may continue the bond given for pretrial release, or may release the defendant on increased bail, or require bond under one or more of the alternatives set forth in section 16-4-104.

SECTION 4. In Colorado Revised Statutes, 16-8-103.6, **amend** (1) (a) and (2) (a) as follows:

16-8-103.6. Waiver of privilege. (1) (a) A defendant who places his or her mental condition at issue by pleading not guilty by reason of insanity pursuant to section 16-8-103, asserting the affirmative defense of impaired mental condition pursuant to section 16-8-103.5, or disclosing witnesses who may provide evidence concerning the defendant's mental condition during a sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 13-____, or SECTION 18-1.3-1302, C.R.S., waives any claim of confidentiality or privilege as to

communications made by the defendant to a physician or psychologist in the course of an examination or treatment for ~~such~~ THE mental condition for the purpose of any trial OR hearing on the issue of ~~such~~ THE mental condition or sentencing hearing conducted pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, or SECTION 18-1.3-1302, C.R.S. The court shall order both the prosecutor and the defendant to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated the defendant for ~~such~~ THE mental condition.

(2) (a) A defendant who places his or her mental condition at issue by pleading not guilty by reason of insanity pursuant to section 16-8-103 or disclosing witnesses who may provide evidence concerning the defendant's mental condition during a sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, or SECTION 18-1.4-102, C.R.S., or, for offenses committed on or after July 1, 1999, by seeking to introduce evidence concerning his or her mental condition pursuant to section 16-8-107 (3) waives any claim of confidentiality or privilege as to communications made by the defendant to a physician or psychologist in the course of an examination or treatment for ~~such~~ THE mental condition for the purpose of any trial OR hearing on the issue of ~~such~~ THE mental condition or sentencing hearing conducted pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, or SECTION 18-1.4-102, C.R.S. The court shall order both the prosecutor and the defendant to exchange the names, addresses, reports, and statements of any physician or psychologist who has examined or treated the defendant for ~~such~~ THE mental condition.

SECTION 5. In Colorado Revised Statutes, 16-8-106, **amend** (2) (c), (3) (b), (6) (b), and (7) (b) as follows:

16-8-106. Examinations and report. (2) (c) The defendant shall cooperate with psychiatrists and other personnel conducting any examination ordered by the court pursuant to this section. Statements made by the defendant in the course of ~~such~~ THE examination shall be protected as provided in section 16-8-107. If the defendant does not cooperate with psychiatrists and other personnel conducting the examination, the court shall not allow the defendant to call any psychiatrist or other expert witness to provide evidence at the defendant's trial concerning the defendant's mental condition including, but not limited to, providing evidence on the issue of insanity or, FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, at any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S. In addition, the fact of the defendant's noncooperation with psychiatrists and other personnel conducting the examination may be admissible in the defendant's trial to rebut any evidence introduced by the defendant with regard to the defendant's mental condition including, but not limited to, the issue of insanity and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S. This paragraph (c) shall apply to offenses committed on or after July 1, 1999.

(3) (b) To aid in forming an opinion as to the mental condition of the defendant, it is permissible in the course of an examination under this section to use confessions and admissions of the defendant and any other evidence of the circumstances surrounding the commission of the offense, as well as the medical and social history of the defendant, in questioning the defendant. When the defendant is noncooperative with psychiatrists

and other personnel conducting the examination, an opinion of the mental condition of the defendant may be rendered by such psychiatrists or other personnel based upon such confessions, admissions, and any other evidence of the circumstances surrounding the commission of the offense, as well as the known medical and social history of the defendant, and such opinion may be admissible into evidence at trial and FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S. It shall also be permissible to conduct a narcoanalytic interview of the defendant with such drugs as are medically appropriate and to subject the defendant to polygraph examination. In any trial or hearing on the issue of the defendant's sanity or eligibility for release, and in any sentencing hearing held pursuant to section 18-1.3-1201 or 18-1.4-102, C.R.S., the physicians and other personnel conducting the examination may testify to the results of any such procedures and the statements and reactions of the defendant insofar as the same entered into the formation of their opinions as to the mental condition of the defendant both at the time of the commission of the alleged offense and at the present time. This paragraph (b) shall apply to offenses committed on or after July 1, 1995.

(6) With respect to offenses committed on or after July 1, 1995, the report of examination shall include, but is not limited to, the items described in paragraphs (a) to (c) of subsection (5) of this section, and:

(b) Separate opinions as to whether the defendant was insane or is ineligible for release, as those terms are defined in this article and, in any class 1 felony case FOR AN OFFENSE COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, an opinion as to how the mental

disease or defect or the condition of mind caused by mental disease or defect affects any mitigating factor. The nature of the opinions required depends upon the type of examination ordered by the court.

(7) With respect to offenses committed on or after July 1, 1999, when a defendant has undergone an examination pursuant to the provisions of this section because the defendant has given notice pursuant to section 16-8-107 (3) that he or she intends to introduce expert opinion evidence concerning his or her mental condition, the report of examination shall include, but is not limited to, the items described in paragraphs (a) to (c) of subsection (5) of this section and:

(b) Separate opinions as to the defendant's mental condition including, but not limited to, whether the defendant was insane or is ineligible for release, as those terms are defined in this article and, in any class 1 felony case FOR AN OFFENSE COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, an opinion as to how the mental disease or defect or the condition of mind caused by mental disease or defect affects any mitigating factor. The nature of the opinions required depends upon the type of examination ordered by the court.

SECTION 6. In Colorado Revised Statutes, 16-8-107, **amend** (1) (b), (1) (c), and (1.5) (b) as follows:

16-8-107. Evidence. (1) (b) Evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the course of a court-ordered examination under section 16-8-108 or acquired pursuant to section 16-8-103.6 is admissible at any sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 or

18-1.4-102, C.R.S., only to prove the existence or absence of any mitigating factor**.**

(c) If the defendant testifies in his or her own behalf upon the trial of the issues raised by the plea of not guilty, or at a sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, SECTION 18-1.3-1302, or 18-1.4-102, C.R.S., the provisions of this section shall not bar any evidence used to impeach or rebut the defendant's testimony.

(1.5) (b) Evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the course of a court-ordered examination under section 16-8-106 or acquired pursuant to section 16-8-103.6 is admissible at any sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, or SECTION 18-1.4-102, C.R.S., only to prove the existence or absence of any mitigating factor.

SECTION 7. In Colorado Revised Statutes, 16-8.5-103, **amend** (8) as follows:

16-8.5-103. Determination of competency to proceed. (8) If the question of the defendant's incompetency to proceed is raised after a jury is impaneled to try the issues raised by a plea of not guilty and the court determines that the defendant is incompetent to proceed or orders the defendant committed for a court-ordered competency evaluation, the court may declare a mistrial. Declaration of a mistrial under these circumstances does not constitute jeopardy, nor does it prohibit the trial OR sentencing ~~or execution~~ of the defendant for the same offense after he or she has been found restored to competency.

SECTION 8. In Colorado Revised Statutes, 16-8.5-108, **amend** (1) (c) as follows:

16-8.5-108. Evidence. (1) (c) If the defendant testifies on his or her own behalf upon the trial of the issues raised by the plea of not guilty or, for offenses that occurred before July 1, 1995, a plea of not guilty by reason of impaired mental condition, or at a sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 or 18-1.4-102, C.R.S., the provisions of this section shall not bar any evidence used to impeach or rebut the defendant's testimony.

SECTION 9. In Colorado Revised Statutes, 18-1-409, **amend** (1) as follows:

18-1-409. Appellate review of sentence for a felony. (1) When A sentence is imposed upon any person following a conviction of any felony, other than a class 1 felony in which a death sentence is automatically reviewed pursuant to section 18-1.3-1201 (6) FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 (6) or 18-1.4-102 (6), the person convicted shall have the right to one appellate review of the propriety of the sentence, having regard to the nature of the offense, the character of the offender, and the public interest, and the manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based; except that, if the sentence is within a range agreed upon by the parties pursuant to a plea agreement, the defendant shall not have the right of appellate review of the propriety of the sentence. The procedures to be employed in the review shall be as provided by supreme court rule.

SECTION 10. In Colorado Revised Statutes, 18-1.3-401, **amend**

(1) (a) (V) (A) introductory portion and (4) (a); and **add** (1) (a) (V.5) as follows:

18-1.3-401. Felonies classified - presumptive penalties. (1) (a) (V) (A) As to any person sentenced for a felony committed on or after July 1, 1993, AND PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, felonies are divided into six classes ~~which~~ THAT are distinguished from one another by the following presumptive ranges of penalties which are authorized upon conviction:

(V.5) (A) AS TO ANY PERSON SENTENCED FOR A FELONY FOR AN OFFENSE COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, FELONIES ARE DIVIDED INTO SIX CLASSES THAT ARE DISTINGUISHED FROM ONE ANOTHER BY THE FOLLOWING PRESUMPTIVE RANGES OF PENALTIES, WHICH ARE AUTHORIZED UPON CONVICTION:

CLASS	**MINIMUM SENTENCE**	**MAXIMUM SENTENCE**	**MANDATORY PERIOD OF PAROLE**
1	LIFE IMPRISONMENT		NONE
2	EIGHT YEARS IMPRISONMENT	TWENTY-FOUR YEARS IMPRISONMENT	FIVE YEARS
3	FOUR YEARS IMPRISONMENT	TWELVE YEARS IMPRISONMENT	FIVE YEARS
4	TWO YEARS IMPRISONMENT	SIX YEARS IMPRISONMENT	THREE YEARS
5	ONE YEAR IMPRISONMENT	THREE YEARS IMPRISONMENT	TWO YEARS
6	ONE YEAR IMPRISONMENT	EIGHTEEN MONTHS IMPRISONMENT	ONE YEAR

(B) ANY PERSON WHO IS PAROLED PURSUANT TO SECTION

17-22.5-403, C.R.S., OR ANY PERSON WHO IS NOT PAROLED AND IS DISCHARGED PURSUANT TO LAW, SHALL BE SUBJECT TO THE MANDATORY PERIOD OF PAROLE ESTABLISHED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5). SUCH MANDATORY PERIOD OF PAROLE MAY NOT BE WAIVED BY THE OFFENDER OR WAIVED OR SUSPENDED BY THE COURT AND SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 17-22.5-403 (8), C.R.S., WHICH PERMITS THE STATE BOARD OF PAROLE TO DISCHARGE THE OFFENDER AT ANY TIME DURING THE TERM OF PAROLE UPON A DETERMINATION THAT THE OFFENDER HAS BEEN SUFFICIENTLY REHABILITATED AND REINTEGRATED INTO SOCIETY AND CAN NO LONGER BENEFIT FROM PAROLE SUPERVISION.

(C) NOTWITHSTANDING THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5), ANY PERSON SENTENCED FOR A SEX OFFENSE, AS DEFINED IN SECTION 18-1.3-1003 (5), COMMITTED ON OR AFTER THE EFFECTIVE DATE OF H.B. 13-_____, SHALL BE SENTENCED PURSUANT TO THE PROVISIONS OF PART 10 OF THIS ARTICLE.

(D) ANY PERSON SENTENCED FOR A FELONY CONVICTION ENTERED ON OR AFTER THE EFFECTIVE DATE OF H.B. 13-_____, INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9), C.R.S., OR FOR A FELONY, COMMITTED ON OR AFTER THE EFFECTIVE DATE OF H.B. 13-_____, THE UNDERLYING FACTUAL BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL BEHAVIOR, AND WHO IS NOT SUBJECT TO THE PROVISIONS OF PART 10 OF THIS ARTICLE, SHALL BE SUBJECT TO THE MANDATORY PERIOD OF PAROLE SPECIFIED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5).

(E) THE MANDATORY PERIOD OF PAROLE IMPOSED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5) SHALL COMMENCE

IMMEDIATELY UPON THE DISCHARGE OF AN OFFENDER FROM IMPRISONMENT IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS. IF THE OFFENDER HAS BEEN GRANTED RELEASE TO PAROLE SUPERVISION BY THE STATE BOARD OF PAROLE, THE OFFENDER SHALL BE DEEMED TO HAVE DISCHARGED THE OFFENDER'S SENTENCE TO IMPRISONMENT PROVIDED FOR IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5) IN THE SAME MANNER AS IF SUCH SENTENCE WERE DISCHARGED PURSUANT TO LAW; EXCEPT THAT THE SENTENCE TO IMPRISONMENT FOR ANY PERSON SENTENCED AS A SEX OFFENDER PURSUANT TO PART 10 OF THIS ARTICLE SHALL NOT BE DEEMED DISCHARGED ON RELEASE OF SAID PERSON ON PAROLE. WHEN AN OFFENDER IS RELEASED BY THE STATE BOARD OF PAROLE OR RELEASED BECAUSE THE OFFENDER'S SENTENCE WAS DISCHARGED PURSUANT TO LAW, THE MANDATORY PERIOD OF PAROLE SHALL BE SERVED BY SUCH OFFENDER. AN OFFENDER SENTENCED FOR NONVIOLENT FELONY OFFENSES, AS DEFINED IN SECTION 17-22.5-405 (5), C.R.S., MAY RECEIVE EARNED TIME PURSUANT TO SECTION 17-22.5-405, C.R.S., WHILE SERVING A MANDATORY PAROLE PERIOD IN ACCORDANCE WITH THIS SECTION BUT NOT WHILE SUCH OFFENDER IS REINCARCERATED AFTER A REVOCATION OF THE MANDATORY PERIOD OF PAROLE. AN OFFENDER SHALL BE ELIGIBLE TO RECEIVE ANY EARNED TIME WHILE ON PAROLE OR AFTER REPAROLE FOLLOWING A PAROLE REVOCATION. THE OFFENDER SHALL NOT BE ELIGIBLE FOR EARNED TIME WHILE THE OFFENDER IS REINCARCERATED AFTER REVOCATION OF THE MANDATORY PERIOD OF PAROLE PURSUANT TO THIS SUBPARAGRAPH (V.5).

(F) IF AN OFFENDER IS SENTENCED CONSECUTIVELY FOR THE COMMISSION OF TWO OR MORE FELONY OFFENSES PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (V.5), THE MANDATORY

PERIOD OF PAROLE FOR SUCH OFFENDER SHALL BE THE MANDATORY PERIOD OF PAROLE ESTABLISHED FOR THE HIGHEST CLASS FELONY OF WHICH SUCH OFFENDER HAS BEEN CONVICTED.

(4) (a) A person who has been convicted of a class 1 felony shall be punished by life imprisonment in the department of corrections unless THE OFFENSE WAS COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____ AND a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102 results in a verdict that requires imposition of the death penalty, in which event such person shall be sentenced to death. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1985, and before July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole for forty calendar years. As to any person sentenced for a class 1 felony, for an act committed on or after July 1, 1990, life imprisonment shall mean imprisonment without the possibility of parole.

SECTION 11. In Colorado Revised Statutes, 18-1.3-1201, **add** (9) as follows:

18-1.3-1201. Imposition of sentence in class 1 felonies - appellate review. (9) THE PROVISIONS OF THIS SECTION ONLY APPLY TO OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION (9).

SECTION 12. In Colorado Revised Statutes, **add** 18-1.3-1408 as follows:

18-1.3-1408. Applicability. THIS PART 14 ONLY APPLIES TO OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

SECTION 13. In Colorado Revised Statutes, 18-3-107, **amend**

(3) as follows:

18-3-107. First degree murder of a peace officer or firefighter - legislative declaration. (3) A person convicted of first degree murder of a peace officer or firefighter shall be punished by life imprisonment without the possibility of parole for the rest of his or her natural life unless THE OFFENSE WAS COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____ AND a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102 results in a verdict that requires imposition of the death penalty, in which event such person shall be sentenced to death. Nothing in this subsection (3) shall be construed as limiting the power of the governor to grant reprieves, commutations, and pardons pursuant to section 7 of article IV of the Colorado constitution.

SECTION 14. In Colorado Revised Statutes, 13-4-102, **amend** (1) (h) as follows:

13-4-102. Jurisdiction - repeal. (1) Any provision of law to the contrary notwithstanding, the court of appeals shall have initial jurisdiction over appeals from final judgments of, and interlocutory appeals of certified questions of law in civil cases pursuant to section 13-4-102.1 from, the district courts, the probate court of the city and county of Denver, and the juvenile court of the city and county of Denver, except in:

(h) Cases appealed from the district court granting or denying postconviction relief in a case in which a sentence of death has been imposed FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____.

SECTION 15. In Colorado Revised Statutes, 16-8.5-108, **amend**

(1) (b) as follows:

16-8.5-108. Evidence. (1) (b) Evidence acquired directly or indirectly for the first time from a communication derived from the defendant's mental processes during the course of a competency evaluation or involuntary medication proceeding is admissible at any sentencing hearing held pursuant to section 18-1.3-1201, C.R.S., FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 or 18-1.4-102, C.R.S., only to prove the existence or absence of any mitigating factor.

SECTION 16. In Colorado Revised Statutes, 18-1.3-104, **amend** (1) (c) as follows:

18-1.3-104. Alternatives in imposition of sentence. (1) Within the limitations of the applicable statute pertaining to sentencing and subject to the provisions of this title, the trial court has the following alternatives in entering judgment imposing a sentence:

(c) The defendant shall be sentenced to death in those cases in which a death sentence is required under section 18-1.3-1201 FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 or 18-1.4-102.

SECTION 17. In Colorado Revised Statutes, 18-1.3-801, **amend** (1) (e) as follows:

18-1.3-801. Punishment for habitual criminals. (1) (e) Nothing in this subsection (1) is to be construed to prohibit a person convicted of a class 1 felony from being sentenced pursuant to section 18-1.3-1201 FOR OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF H.B. 13-_____, OR SECTION 18-1.3-1302 or 18-1.4-102.

SECTION 18. In Colorado Revised Statutes, **add** 18-1.3-1106 as

follows:

18-1.3-1106. Applicability. THE PROVISIONS OF THIS PART 11 ONLY APPLY TO OFFENSES COMMITTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

SECTION 19. Refer to people under referendum. This act shall be submitted to a vote of the registered electors of the state of Colorado at the next biennial regular general election, for their approval or rejection, under the provisions of the referendum as provided for in section 1 of article V of the state constitution, and in article 40 of title 1, Colorado Revised Statutes. Each elector voting at said election and desirous of voting for or against said act shall cast a vote as provided by law either "Yes" or "No" on the proposition: "SHALL THE DEATH PENALTY BE REPEALED IN COLORADO?" The votes cast for the adoption or rejection of said act shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress.