

CHAPTER 130

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 24-1225

BY REPRESENTATIVE(S) Duran and Lynch, Armagost, Bird, Bottoms, Bradley, Catlin, DeGraaf, Frizell, Jodeh, Lindstedt, McCormick, Snyder, Soper, Titone, Valdez, Weinberg, McCluskie;
 also SENATOR(S) Fields and Gardner, Buckner, Cutter, Exum, Ginal, Gonzales, Hansen, Hinrichsen, Kirkmeyer, Kolker, Liston, Lundeen, Marchman, Michaelson Jenet, Mullica, Pelton B., Pelton R., Priola, Rich, Roberts, Simpson, Smallwood, Sullivan, Van Winkle, Will, Winter F., Fenberg.

AN ACT

CONCERNING PROCEDURES IN MURDER IN THE FIRST DEGREE CASES, AND, IN CONNECTION THEREWITH, AN EXCEPTION TO THE RIGHT TO BAIL FOR CASES OF MURDER IN THE FIRST DEGREE WHEN PROOF IS EVIDENT OR PRESUMPTION IS GREAT.

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

SECTION 1. In Colorado Revised Statutes, 16-4-101, **amend** (1)(c), (3), and (4); and **add** (1)(d) as follows:

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

(c) When a person has been convicted of a crime of violence or a crime of possession of a weapon by a previous offender, as described in section 18-12-108 (2)(b), (2)(c), (4)(b), (4)(c), or (5), as those provisions existed prior to their repeal on March 1, 2022, at the trial court level and ~~such~~ THE person is appealing ~~such~~ THE conviction or awaiting sentencing for ~~such~~ THE conviction and the court finds that the public would be placed in significant peril if the convicted person were released on bail; OR

(d) FOR THE OFFENSE OF MURDER IN THE FIRST DEGREE, AS DESCRIBED IN SECTION 18-3-102, COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (1)(d), WHEN PROOF IS EVIDENT OR PRESUMPTION IS GREAT.

(3) In any capital case OR CASE IN WHICH THE DEFENDANT IS CHARGED WITH MURDER IN THE FIRST DEGREE, the defendant may make a written motion for

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

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~~ THE motion. At ~~such~~ THE hearing, the burden ~~shall be upon~~ IS ON 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 OR CASE IN WHICH THE DEFENDANT IS CHARGED WITH MURDER IN THE FIRST DEGREE, if a person is denied bail ~~under~~ PURSUANT TO this section, the trial of the person ~~shall~~ MUST 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 2. In Colorado Revised Statutes, 16-10-104, **amend** (1) as follows:

16-10-104. Peremptory challenges. (1) (a) In capital cases AND IN CASES IN WHICH THE DEFENDANT IS CHARGED WITH MURDER IN THE FIRST DEGREE, the state and the defendant, when there is one defendant, ~~shall~~ ARE each ~~be~~ entitled to ten peremptory challenges. In all other cases where there is one defendant and the punishment may be by imprisonment in the correctional facilities operated by the department of corrections, the state and the defendant ~~shall~~ ARE each ~~be~~ entitled to five peremptory challenges, and in all other cases to three peremptory challenges.

(b) (I) If there is more than one defendant IN A CASE:

(A) IN CAPITAL CASES AND IN CASES IN WHICH A DEFENDANT IS CHARGED WITH MURDER IN THE FIRST DEGREE, each side ~~shall be~~ IS entitled to an additional three peremptory challenges for every defendant after the first, ~~in capital cases~~; but not exceeding twenty peremptory challenges to each side;

(B) In all other cases where the punishment may be by imprisonment in the correctional facilities operated by the department of corrections, EACH SIDE IS ENTITLED to two additional peremptory challenges for every defendant after the first, not exceeding fifteen peremptory challenges to each side; and

(C) In all other cases, EACH SIDE IS ENTITLED to one additional peremptory challenge for every defendant after the first, not exceeding ten peremptory challenges to each side.

(II) In any case where there are multiple defendants, every peremptory challenge shall be made and considered as the joint peremptory challenge of all defendants.

(c) In case of the consolidation of any indictments, informations, complaints, or summonses and complaints for trial, ~~such~~ THE consolidated cases shall be considered, for all purposes concerning peremptory challenges, as though the defendants had been joined in the same indictment, information, complaint, or summons and complaint.

(d) When trial is held on a plea of not guilty by reason of insanity, the number of peremptory challenges ~~shall be~~ is the same as if trial were on the issue of substantive guilt.

SECTION 3. Effective date. This act takes effect only if House Concurrent Resolution 24-1002 is approved by the people at the next general election, in which case this act takes effect on the date of the official declaration of the vote thereon by the governor.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: April 29, 2024