

Report to the Colorado General Assembly:

RECOMMENDATIONS FOR 1988

ADULT CRIMINAL JUSTICE SYSTEM



COLORADO LEGISLATIVE COUNCIL

**RESEARCH PUBLICATION NO. 312
December, 1987**

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COLORADO LEGISLATIVE COUNCIL
RECOMMENDATIONS FOR 1988

COMMITTEE ON
ADULT CRIMINAL JUSTICE SYSTEM

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Colorado General Assembly

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To Members of the Fifty-sixth Colorado General Assembly:

Submitted herewith is the final report of the Committee on the Adult Criminal Justice System. The committee was appointed by the Legislative Council pursuant to House Joint Resolution No. 1032, 1987 session.

At its meeting on November 18, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Committee on the Adult Criminal Justice Committee to the Fifty-sixth General Assembly was also approved.

Respectfully submitted,

/s/ Senator Ted L. Strickland
Chairman
Colorado Legislative Council

TLS/pn

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COMMITTEE ON ADULT CRIMINAL JUSTICE SYSTEM

SUMMARY OF COMMITTEE ACTIVITY AND RECOMMENDATIONS

The Committee on Adult Criminal Justice System was directed to undertake a comprehensive study of the adult criminal justice system, with particular attention given to utilization of the state's correctional facilities and programs. Specifically, the committee was directed to evaluate state and local correctional facilities and resources and the use of alternatives to incarceration, to evaluate the state's sentencing structure and to determine whether the penalty ranges for felony offenses are appropriate, to evaluate the need for construction or leasing of additional correctional facilities, and to evaluate the scope and effectiveness of probation, community corrections, and parole programs.

In this effort, the committee held seven meetings and received testimony from numerous witnesses, including representatives from the Judicial Department, the Department of Corrections, the Division of Criminal Justice, the State Board of Parole, various district attorneys, representatives of the County Sheriffs Association, persons associated with community corrections programs, representatives of victims groups, and other interested citizens.

The committee recommends eleven bills and one joint resolution for legislative consideration. These bills and the joint resolution are summarized later in this report.

Capacity Needs of the Correctional System Jail and Prison Overcrowding

Prior to the enactment of House Bill 1320 (the Mielke Bill) in 1985, the Division of Criminal Justice had projected that the prison population in 1987-1988 would be approximately 4,069 and would rise to 4,683 by 1990-1991. With the completion and occupancy of the Ordway facility this year and next, Department of Corrections capacity would have been adequate to handle the projected prison population. However, with the enactment of H.B. 1320 and its subsequent implementation, the prison population has been increasing at a level which outpaces the ability of the Department of Corrections to meet those demands.

The Division of Criminal Justice has periodically revised the prison population projection based on more recent data as it is received and evaluated. The October, 1986, projection was based on sentencing information available at that time. The Division of Criminal Justice projected a population of 4,603 by June 30, 1987. The actual population on June 15 was 4,604. More recent data on sentence lengths caused the Division to update its population

projections in August, 1987. This projection, set forth in Table I, shows the projected population for 1987-88 to be 5,830, and to rise to 8,584 in 1990-91. This latest projection demonstrates that length of stay in prison is the driving factor in the projected population increase, since admissions are projected to remain fairly steady. The numbers reflect how inmates "stack up" in prison as offenders with the longer length of stay under House Bill 1320 are admitted.

The result of this increase in prison population has been an increasing backlog of state inmates being housed in county jails awaiting transfer to state facilities when spaces become available. In 1983, there were 259 state inmates housed in county jails. This backlog increased to 581 in mid-summer of 1987. As the current population projections indicate in Table II, this backlog could increase to over 2,500 by 1989-90 unless additional prison capacity is developed or modifications to the current sentencing law are implemented. The county jails cannot absorb this kind of backlog.

TABLE I
PRISON POPULATION PROJECTIONS - DIVISION OF
CRIMINAL JUSTICE - AUGUST, 1987

<u>FISCAL YEAR</u>	<u>PROJECTED POPULATION</u>	
	<u>Projections Prior to House Bill 1320 (1985)</u>	<u>Projection of 8-87 Under H.B. 1320 *</u>
1987 - 1988	4,069	5,830
1988 - 1989	4,285	6,168
1989 - 1990	4,479	7,208
1990 - 1991	4,683	8,584
1991 - 1992	-	9,218
1992 - 1993	-	9,641
1993 - 1994	-	10,093
1994 - 1995	-	10,289

* These figures reflect a 77 percent increase in the prison population between 1987 and 1995. These projections are based on the following assumptions: 1) the state demographer has accurately projected the age-specific population at risk; 2) laws, policies, and practices affecting filings and commitments will not change significantly between 1987 and 1995; 3) all admissions are now House Bill 1320 admissions; 4) the average sentence imposed by the courts will continue as reflected in the judicial sample, March 1 to May 1, 1987; 5) the parole board will add an average of 25 percent to the parole eligibility date; and 6) jail credit time and earned time effect will be equal to parole revocation effect. Admissions are projected to remain fairly steady; therefore length of stay is the driving factor in this increase.

TABLE II
PROJECTED COUNTY JAIL BACKLOG

<u>Fiscal Year</u>	<u>DCJ Projected Population 1</u>	<u>Projected Backlog Assuming No Capacity Expansion</u>
1987 - 1988	5,830	794
1988 - 1989	6,168	1,132
1989 - 1990	7,208	2,172
1990 - 1991	8,584	3,548
1991 - 1992	9,218	4,182
1992 - 1993	9,641	4,605
1993 - 1994	10,093	5,057
1994 - 1995	10,298	5,262

1/ Projection of 8-87 under H.B. 1320.

Because of the county jail backlog situation, the committee devoted a great deal of time attempting to determine what could be done to ease the county jail backlog by providing for more capacity in the state correctional system. To the question of "what can be done?" there are no easy answers or solutions. To continue to do nothing would leave the state with having over 2,500 more prisoners in less than four years without anywhere to put them. This would be irresponsible for several reasons. Lack of prison space places a great burden on counties and could also lead to the early release of many offenders who necessarily should be confined for long periods of time. On the other hand, the cost of constructing correctional facilities to house the 2,500 prisoner backlog, at approximately \$76,500 per bed construction costs, would deprive the state of those resources which could be more productively utilized for high priority programs, such as education and health care.

Committee Recommendations

With this background, the committee sought a comprehensive approach to the "corrections crisis" -- an approach that would balance the needs of the corrections system and the protection of our citizens against crime with the realistic current economic climate and the other needs of the state, such as highways, education, and health care. Through this process, the committee arrived at a package of recommendations which are aimed at achieving four results:

- 1) increasing immediate capacity by 1,449 through short-term measures and permanent diversionary alternatives which do not call for expensive, permanent prison construction;

- 2) making a long-term investment to add 932 permanent prison bed spaces by constructing two new prisons and upgrading an existing facility (Shadow Mountain), construction to begin as soon as possible so that additional capacity is ready by the summer of 1990;
- 3) altering the existing sentencing structure for Class 4 and Class 5 nonviolent felonies to bring some relief to the remaining jail backlog problem; and
- 4) upgrading parole and probation services to provide for better public safety.

Increasing Immediate Capacity

In order to achieve some immediate relief from the jail backlog problem and to make more correctional spaces available in the short term, the committee recommends that funds be appropriated to: 1) provide the resources necessary to double-bunk an additional 157 cells; 2) provide for the transition of up to 200 additional prisoners to community corrections facilities as authorized by S.B. 161, and provide for an additional 200 beds for front-end diversion of felons to community corrections; 3) provide for full utilization of Ordway which would add 242 beds to those sections now open and those currently double-bunked; 4) contract with county jails for 250 cell spaces at an average cost of \$40 per day; 5) contract with other states for the placement of 50 inmates at an average cost of \$42 per day; and 6) increase Intensive Probation staff to divert an additional 350 from prison.

Approximately \$16,403,382 would be necessary to achieve this goal over the next year and one-half -- \$4,265,888 in supplemental funds for FY 1987-88 and \$12,137,494 for FY 1988-89 operations. This averages to approximately \$11,320 per year per inmate (1,449 spaces). See Table III for details of the approximate cost of each proposal.

Double bunking. For FY 1987-88, the Department of Corrections has been authorized and funded to double-bunk a total of 343 cells: 200 beds at Ordway, 87 beds at Buena Vista, and 56 beds at Territorial. With the approval of the Federal Court, the Department of Corrections estimates that it could double-bunk 157 more cells. For FY 1987-88, operating costs for the additional beds would be approximately \$506,250, and one-time capital costs would be approximately \$531,300, for a total cost of \$1,037,550.

For FY 1988-89, the operating costs for the additional 157 beds would be approximately \$2,025,000, or \$12,898 per inmate per year.

Community corrections. Senate Bill 161, which was enacted on August 12, provided for the transition of up to 200 additional prisoners to community correctional facilities, but did not appropriate money to pay for the use of the facilities. The committee

recommends a supplemental appropriation of \$456,250 be authorized as early as possible when the General Assembly convenes in January, 1988, to begin the phasing in of 200 offenders at \$25 per day.

Data submitted by the community correctional centers indicates that there are from 282 to 287 existing beds which are empty and can be filled immediately. In addition, from 387 to 397 beds could be available within 30 days if inmates and funds were available. In addition to providing for 200 additional transition spaces, the committee recommends that the state provide for an additional 200 community corrections spaces for front-end diversion. The costs for the additional 400 community corrections spaces for diversion and transition would be approximately \$3,650,000 for FY 1988-89, or \$9,125 per offender per year.

Complete opening of Ordway. Full utilization of Ordway would add 242 beds to those sections now open and those currently double-bunked. However, funding for staffing at the Ramos facilities was reduced for FY 1987-88 and the Department is using Ordway funds to maintain staffing at the prisons as required under the Ramos court order. Thus, the necessary funds for full utilization of Ordway are not available. For the Department to fully open Ordway and maintain Canon City's staffing at Ramos levels, the committee recommends that a supplemental appropriation of \$875,000 be authorized for FY 1987-88 and that an appropriation for FY 1988-89 of \$875,000 be included in the appropriation bill.

Utilization of available county jail spaces. The Department of Corrections has identified approximately 250 available county jail spaces which could be utilized to house state prisoners if the state is able to pay an average of \$40 per day per inmate. In this regard, the committee recommends Bill 1, authorizing the Department to contract with county sheriffs for the placement of state prisoners in county jails. The committee also recommends that a supplemental appropriation of \$1,825,000 for FY 1987-88 to pay the counties \$40 per day for the 250 spaces and that an appropriation of \$3,650,000 be included in the FY 1988-89 appropriation bill to continue the use of the jail spaces contracted for by the counties.

Use of prison space in other states. The Department of Corrections informed the committee that approximately 50 prison spaces have been identified in other states which could be utilized or contracted for if funds were available. The Department can contract with other states to house its prisoners under the current law and this option is already being utilized in selected cases. This option would cost approximately \$42 per day per prisoner. The committee recommends that an appropriation of \$766,500 be included in the FY 1988-89 appropriation bill to house 50 state prisoners in out-of-state prisons willing to contract with Colorado.

Intensive supervision probation. In response to a demand for incarceration that exceeds prison capacity, intensive supervision probation programs have been implemented over the past several years.

The Colorado ISP program has been successfully implemented in five judicial districts as a method of supervising offenders in the community who would otherwise be sentenced to the Department of Corrections. The program was initiated in Colorado Springs in 1984 and has expanded to Boulder, Denver, Fort Collins, and Canon City. An offender sentenced to ISP is supervised by an experienced professional probation officer whose caseload does not exceed 25 probationers. The program has been successful in supervising prison-bound offenders in the community at no increased risk to public safety.

This alternate strategy provides a cost effective sentencing option that satisfies punishment, public safety, and treatment objectives.

The committee recommends that this program be expanded to additional judicial districts which demonstrate a need for the program and that it be expanded so that the courts can place an additional 350 offenders. The committee recommends that an appropriation of \$750,000 be included in the FY 1988-89 appropriation bill so that 350 offenders can be diverted from prison at an average cost of \$2,142 per probationer per year.

Summary of short-term immediate capacity proposal -- savings to the state. By investing \$15,910,300 in FY 1987-88 and FY 1988-89 to create 1,449 spaces through diversion from prison, utilizing existing spaces in present facilities, and by double bunking, the state will avoid spending \$92,335,500 in building prisons (1,207 cells at \$76,500 per cell = \$92,335,500). This approach will save the state a total of \$76,425,200 by not spending to build prisons.

TABLE III

APPROXIMATE EXPENSES TO CREATE
ADDITIONAL SPACE TO HOUSE PRISONERS AND
TO UPGRADE PAROLE AND PROBATION SERVICES

	<u>FY 1987-88</u>	<u>Number of Spaces</u>	<u>FY 1988-89</u>	<u>Number of Spaces</u>
Double Bunking Operating and Capital Costs	\$1,037,550	+157	\$2,025,000	+157
Community Corrections	456,250	+200	3,650,000	+400
Ordway Funding	875,000	+242	875,000	+242
County Jail Contracts	1,825,000	+250	3,650,000	+250

	<u>FY 1987-88</u>	<u>Number of Spaces</u>	<u>FY 1988-89</u>	<u>Number of Spaces</u>
Parole Hotline	72,088	-	140,462	-
Out-of-State prisons	-	-	766,500	+50
Increase Parole Staff	-	-	280,532	-
Intensive Probation	<u>-</u>	<u>-</u>	<u>750,000</u>	<u>+350</u>
	\$4,265,888	+849	\$12,137,494	+1,449

Increasing Permanent Capacity

Even if the short-term immediate capacity proposals discussed above are fully implemented, there will continue to be a backlog of state prisoners in county jails unless other measures are taken to expand capacity. See Table IV for the projected backlog with the new capacity.

TABLE IV
PROJECTED COUNTY JAIL BACKLOG AFTER NEW CAPACITY

<u>Fiscal Year</u>	<u>Present DOC Capacity</u>	<u>Proposed Additional Capacity</u>	<u>Total Projected Capacity</u>	<u>Projected Backlog With New Capacity</u>
1987 - 1988	5,036	607 <u>1/</u>	5,643	187
1988 - 1989	5,036	600 <u>2/</u>	6,243	+75
1989 - 1990	5,036	-	6,243	965
1990 - 1991	5,036	836 <u>3/</u>	7,079	1,505
1991 - 1992	5,036	-	7,079	2,139
1992 - 1993	5,036	-	7,079	2,562

1/ Consists of +157 from double bunking; +200 additional in community corrections, and +250 contracted to county jails. The 242 at Ordway is counted in the 5,036 capacity.

2/ Consists of +200 additional diversion community corrections slots, +50 contracted to other states, and +350 diverted to Intensive Probation Supervision.

3/ Completion of Denver Diagnostic Center at +336, one 500-bed medium security facility at +500.

Bill 11 is recommended to appropriate \$90,399,650 for the completion and construction of the Denver area diagnostic center, the design and construction of one 500-bed medium security facility, and the design and construction for the expansion and remodeling of the Shadow Mountain correctional facility. Table V, below, provides detail of the costs of this proposal. These proposals would add 836 more prison spaces by 1991. Together with the short-term proposals, a total of 2,285 additional spaces would be created.

TABLE V
APPROXIMATE EXPENSES FOR
CONSTRUCTION OF NEW FACILITIES

<u>Proposed Facility</u>	<u>Number of Spaces</u>	<u>Approximate Cost</u>
Denver Diagnostic Center	+336	\$ 41,100,000
500-bed Medium Security	+500	38,250,000
Shadow Mountain Upgrade	-	11,049,650
	<u>+836</u>	<u>\$ 90,399,650</u>

Sentencing Law Changes

Evidence was presented that greater length of stay is causing the overcrowding condition in the prison system, not more offenders being sentenced. The average length of stay in Colorado is 28 months and the national average is 23 months. For each additional month the average length of stay is increased, an additional 175 beds must be added to the system. The average length of stay for a Class 4 felony is now 6.8 years compared to 3 years under the old sentencing law. The average length of stay for a Class 5 felony is now 4 years compared to 1.5 years under the old sentencing law.

Presently, the sentencing range for a Class 4 felony is 2 to 8 years, and for a Class 5 felony it is 1 to 4 years. Several proposals were submitted to reduce the maximum presumptive range for Class 4 and Class 5 felonies, the rationale being that many offenses within the Class 4 and Class 5 categories are nonviolent property offenses and that the maximum range for such offenses is too long. Because cell space is utilized to the maximum, it was the thought of many persons that these cells should first be filled with the violent offenders. This would protect society and appropriately punish offenders. Because of the lack of cell space and because of the distinction between violent and nonviolent offenders, it seemed that there is no need to have the same sentencing range for nonviolent Class 4 and Class 5 felonies.

In order to appropriately distinguish sentencing ranges between violent and nonviolent Class 4 and Class 5 felons, the Committee

recommends the adoption of Bill 1. Section 4 of Bill 1 decreases the presumptive range of sentencing for nonviolent Class 4 and Class 5 felony offenders to the presumptive range as it existed prior to adoption of the Mielke bill in 1985, i.e., 2 to 4 years for a Class 4 felony and 1 to 2 years for a Class 5 felony. In addition, the bill provides that the revised presumptive ranges apply retroactively to persons sentenced for a Class 4 or Class 5 felony committed on or after July 1, 1985. Preliminary projections are that this sentencing law change will result in a prison bed space savings of approximately 1,705 by 1993.

The prison bed space savings results from a reduction in length of stay for the current prison population and from a reduction in the length of stay of new admissions. The retroactive effect was calculated by the Department of Corrections Planning and Research Unit and the Division of Criminal Justice estimated the new admissions effect by recomputing the August 1987 prison population projections with the reduced length of stay for nonviolent Class 4 and Class 5 admissions. The new admissions and retroactive effect are as follows:

<u>Fiscal Year</u>	<u>Retroactive Effect</u>	<u>New Admissions Effect</u>	<u>Total</u>
1987 - 1988	273	0	273
1988 - 1989	260	98	358
1989 - 1990	90	444	534
1990 - 1991	19	1,093	1,112
1991 - 1992	7	1,565	1,572
1992 - 1993	3	1,702	1,705
1993 - 1994	0	1,702	1,702
1994 - 1995	0	1,702	1,702

As these figures indicate, the retroactive effect would be exhausted, and the new admissions effect fully realized, by 1993. Thereafter, the projected prison population would be 1,702 less than under the Mielke bill. These estimates are based on the following assumptions: 1) that all prison population projection assumptions are valid; 2) that the percent of nonviolent Class 4 felons and Class 5 felons admitted to prison will remain stable (50 percent of Class 4 and 78 percent of Class 5); 3) that the nonviolent Class 4 and Class 5 length of stay as of the effective date of the bill will be consistent with the current length of stay for such inmates; and 4) that the length of stay under the bill will be 50 percent of the current length of stay for nonviolent Class 4 and Class 5 admissions.

TABLE VI

PROJECTED BACKLOG WITH CAPACITY EXPANSION
AND SENTENCING LAW CHANGES

<u>Fiscal Year</u>	<u>Projected Backlog Assuming No Expansion 1/</u>	<u>Projected Backlog With Capacity Expansion 2/</u>	<u>Projected Cell Space Savings With Sentencing Law Changes</u>	<u>Backlog With Capacity Expansion and Sentencing Change</u>
1987-1988	794	187	273	+ 86
1988-1989	1,132	+ 75	358	+ 433
1989-1990	2,172	965	534	431
1990-1991	3,548	1,505	1,112	393
1991-1992	4,182	2,139	1,572	567
1992-1993	4,605	2,562	1,705	857

1/ Total current capacity at 5,036.

<u>2/ Fiscal Year</u>	<u>Double-Bunking</u>	<u>ComCor</u>	<u>Jails</u>	<u>Out-of-State</u>	<u>Diver-sion</u>	<u>ISP</u>	<u>Diag.</u>	<u>New</u>	<u>NET</u>
1987-88	157	200	250	0	0	0	0	0	607
1988-89	157	200	250	50	200	350	0	0	1,207
1989-90	157	200	250	50	200	350	0	0	1,207
1990-91	157	200	250	50	200	350	336	500	2,043
1991-92	157	200	250	50	200	350	336	500	2,043
1992-93	157	200	250	50	200	350	336	500	2,043

As Table VI, above, indicates, if the proposed modifications in the sentencing law for Class 4 and Class 5 felonies were implemented, along with the recommended capacity expansion proposals, the projected backlog for the next five years is substantially reduced. (4,605 with no expansion to 857 with expansion and sentencing changes by FY 1992-93.) Another form of demonstrating the impact of the committee's proposals is set forth in Table VII below. This table shows the impact of each of the committee's recommendations on the projected backlog and the cumulative effect if all of the proposals were adopted.

TABLE VII
 PROJECTED BACKLOG WITH CAPACITY EXPANSION
 AND SENTENCING LAW CHANGES
 (CUMULATIVE EFFECT)

	<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>	<u>FY 1993</u>
Backlog with no Changes	794	1,132	2,172	3,548	4,182	4,605
Changes Proposed:						
Sentencing Law Backlog*	(273) 521	(358) 774	(534) 1,638	(1,112) 2,436	(1,572) 2,610	(1,705) 2,900
Double-Bunking 157 Backlog*	(157) 637	(157) 975	(157) 2,015	(157) 3,391	(157) 4,025	(157) 4,448
Cumulative Backlog**	364	617	1,481	2,279	2,453	2,743
County Jail Contracts Backlog*	(250) 544	(250) 882	(250) 1,922	(250) 3,298	(250) 3,932	(250) 4,355
Cumulative Backlog**	114	367	1,231	2,029	2,203	2,493
Out-of-State Contr. Backlog*	0 794	(50) 1,082	(50) 2,122	(50) 3,498	(50) 4,132	(50) 4,555
Cumulative Backlog**	114	317	1,181	1,979	2,153	2,443
Expand Community Beds Backlog*	(200) 594	(400) 732	(400) 1,772	(400) 3,148	(400) 3,782	(400) 4,205
Cumulative Backlog**	(86)	(83)	781	1,579	1,753	2,043
Expand ISP Problems Backlog*	0 794	(350) 782	(350) 1,822	(350) 3,198	(350) 3,832	(350) 4,255
Cumulative Backlog**	(86)	(433)	431	1,229	1,403	1,693
Denver Diagnostic Backlog*	0 794	0 1,132	0 2,172	(336) 3,212	(336) 3,846	(336) 4,269
Cumulative Backlog**	(86)	(433)	431	893	1,067	1,357
New 500 Bed Medium Backlog*	0 794	0 1,132	0 2,172	(500) 3,048	(500) 3,682	(500) 4,105
Cumulative Backlog**	(86)	(433)	431	393	567	857

* Backlog if this were the only change made.

** Backlog with this and all previously listed changes.

<u>Summary</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>Fy 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>	<u>FY 1993</u>
Backlog per DCJ	794	1,132	2,172	3,548	4,182	4,605
Changes Proposed:						
Capacity Expansions	(607)	(1,207)	(1,207)	(2,043)	(2,043)	(2,043)
Sentencing Law	(273)	(358)	(534)	(1,112)	(1,572)	(1,705)
Net Backlog	(86)	(433)	431	393	567	857

Public Safety Measures

During the 1987 session, the General Assembly enacted House Bill 1311 which expanded the Parole Board's discretion and required the Board to use risk assessment guidelines when considering whether to parole inmates. In addition, a 24-hour hotline among law enforcement agencies to track parolees was authorized by the bill but was not funded. In order to supervise parolees adequately and enhance public safety, the committee recommends that the number of parole officers be increased and that the 24-hour hotline be funded.

For FY 1987-88, the committee recommends a supplemental appropriation of \$72,088 be approved for operation of the hotline and that \$140,462 be included in the FY 1988-89 appropriation bill to continue its operation. Also, a sum of \$280,532 is recommended to be included in the FY 1988-89 appropriation bill to fund the necessary additional parole officers and supporting positions.

Other Recommendations Concerning
Criminal Justice Issues

Corrections Programs

Boot camp program. New directions in the provision of correctional programs for the delivery of rehabilitation services to inmates are provided in Bill 1. Sections 8 through 10 of the bill authorize the Department of Corrections to implement a regimented inmate discipline pilot program which uses several methods to rehabilitate inmates, including military discipline, physical training, and counseling. The provisions allow the Division of Criminal Justice to contract for such programs and to establish and enforce standards for its operation. Eligibility requirements for offenders participating in the program are set forth and offenders are allowed an accelerated earning time deduction upon successful completion of such participation.

After an inmate has successfully completed the program, he will be placed in community corrections, an ISP program, or on parole. Thus, he will not occupy a secure prison bed. This will avoid the need for additional prison beds, and thereby represents a cost

avoidance to construct prison facilities. Since the program would be provided at a private facility, Department of Corrections' facility beds would not be used to operate the program.

The bill limits participation to 240 inmates per year and 60 inmates at any one time with the length of the program being between 90 and 120 days per inmate.

Based on a fiscal note prepared for House Bill 1344 (1987 Session), which would have implemented a similar program, the General Fund cost to the state for FY 1988-89 would be \$766,500. The cost-avoidance to the state from having to build new prison beds to house such inmates was estimated to amount to \$17,940,000 (299 beds x \$60,000 per bed = \$17,940,000).

The net operating cost savings to the state would amount to \$2,874,150, assuming that no continuing jail backlog would occur. If a jail backlog continues, this General Fund cost savings will not occur. The operating cost is estimated at \$35 per day x 60 inmates x 365 days = \$766,500.

Drug and alcohol treatment programs. A high percentage of offenders entering the correctional system (approximately 80 to 90 percent) suffer from drug and alcohol use and abuse. In the belief that additional and adequate programs to deal with substance abuse will substantially reduce the recidivism rate among inmates, and thereby reduce the number of inmates who return to correctional institutions following release, the committee recommends that the Department of Corrections expand its drug and alcohol treatment programs.

Sections 11 through 16, and section 18 of Bill 1 provide that the Executive Director of the Department of Corrections is to provide drug and alcohol rehabilitation treatment programs for inmates who are in need of such treatment as determined by the court in its sentence or by the diagnostic center and authorize the Executive Director to contract for such treatment programs. Also, drug and alcohol treatment programs may be used as a sentencing alternative in sentencing for criminal offenses. Participation in drug and alcohol treatment programs may be used in determining whether an inmate is awarded earned time credit from his sentence. Participation in drug and alcohol treatment programs are also to be included in the establishment of parole guidelines. The cost of fully implementing this program has not been determined at this time.

Intensive counseling program. Believing that individuals who commit crimes are accountable and responsible for their own actions and that intensive counseling programs are needed to assure prevention of further criminal activity, the committee recommends the establishment of a four-year pilot program which implements intensive counseling programs for inmates during incarceration or parole. Section 15 of Bill 1 authorizes the Executive Director of the Department of Corrections to contract with private persons to perform

counseling services and to select which inmates are to be included in the pilot program evaluation and study. The director is to evaluate and study the effectiveness of the pilot program and submit written findings annually to the General Assembly. The cost of fully implementing this pilot program has not been determined at this time.

Contracting with county jails. As noted earlier, it is recommended that the department contract with county jails to provide for housing of up to 250 inmates, and that a supplemental appropriation of \$1,825,000 for FY 1987-88 be authorized to pay the counties \$40 per day for the 250 spaces. Further, an appropriation of \$3,650,000 should be included in the FY 1988-89 appropriation bill to continue the use of the jail spaces contracted for by the counties.

Sections 20 through 24 of Bill 1 authorize the Executive Director of the Department of Corrections to contract with county sheriffs for the placement of prisoners in county jails, and specifies that such placements under contract shall not be made until the evaluation and diagnostic procedures have been completed. Those counties desiring to contract with the department are to notify the department of available space and the daily charge for such space. The cost of jail space contracts are to be included in the department's budget request to the Joint Budget Committee.

Criminal Justice Commission

The committee recommends that a permanent body be established to review on a comprehensive basis all matters relating to corrections, including sentencing, parole, the use of correctional facilities, alternatives to incarceration, and the cost-effectiveness of state and local correctional resources. Section 26 of Bill 1 establishes a criminal justice commission consisting of 15 members to conduct such a study and, commencing January 1, 1989, and every two years thereafter, to make its recommendations to the Governor and the General Assembly. The cost of implementing this recommendation is preliminarily estimated at \$100,000 per year.

Privatization Issues

Several individuals met with the committee regarding proposals to enter into a lease-purchase arrangement with the state wherein a private concern would construct a correctional facility to be leased to the state. Lack of time prevented the committee from adequately exploring all the many legal, economic, and political issues surrounding the concept of private construction of correctional facilities.

The committee recommends the adoption of Joint Resolution No. 1. This resolution would require the Legislative Council to appoint a committee to conduct a study of the issues regarding the idea of the Department of Corrections entering into a lease-purchase agreement with private entities for the construction or operation of correctional facilities. This committee would submit its findings and recommendations to the First Regular Session of the Fifty-seventh General Assembly.

Concern was expressed that private entities may build correctional facilities in Colorado and contract with other states for the housing of their criminal offenders without regulation by the state of Colorado. This concern led the committee to recommend legislation to prohibit a private contract prison facility from incarcerating an inmate from a state other than Colorado, unless approval of the Executive Director of the Department of Corrections is obtained. Section 25 of Bill 1 would implement this proposal.

New Criminal Offenses and Increases in Criminal Penalties

The committee recommends increases in the sentencing penalty for commission of several criminal offenses and recommends the creation of a new criminal offense. Sections 1 and 2 of Bill 1 add the crimes of child abuse and manslaughter to the definition of "crime of violence" in the Code of Criminal Procedure. This change requires that the sentencing court sentence an offender convicted of such offense to at least the maximum sentence in the presumptive range but not greater than double the length of the maximum range. The committee concluded that these offenses are of such a violent nature as to warrant inclusion in the "violent crime" category.

Based on FY 1986-87 Division of Criminal Justice and Department of Corrections data, four people were incarcerated for felony child abuse (two for Class 2 felony and two for Class 3 felony). In FY 1986-87, 20 percent of the people convicted of felony child abuse were incarcerated. The adoption of this recommendation will result in an 80 percent increase in prison incarcerations of people convicted of felony child abuse. The impact on the prison population will begin after the first year. However, the full impact will not be realized for 24 years. The total impact will result in the need for 258 additional beds. The impact is calculated by subtracting the current population from the total projected population.

Current Admissions:	2 Felony 2's x 14 years x 75%	= 21 beds
	2 Felony 3's x 19 years x 75%	= 29 beds
New Law Admissions:	8 Felony 2's x 24 years x 75%	= 144 beds
	8 Felony 3's x 19 years x 75%	= 114 beds
Total Population:	Current Admissions + New Law	= 308 beds
Total Impact:	Total Admissions - Current Adm.	= 258 beds

In FY 1986-87, 57 percent (20 people) of the people convicted for manslaughter in Colorado were incarcerated. A mandatory sentence under the "crime of violence" statute would increase that number by 15

to equal 35 incarcerations per year. The current sentence length for manslaughter is 8 years, or the top of the range for a Class 4 felony and is not expected to change. The impact of this recommendation on the prison population will begin one year after the effective date because of the increase of people incarcerated for manslaughter. However, the full impact will not be realized until 8 years. The total impact will result in the need for 90 additional beds.

Current Admissions:	20 people x 8 years x 75%	= 120 beds
New Law Admissions:	15 people x 8 years x 75%	= 90 beds
Total Population:	Current Pop. + New Law Pop.	= 210 beds
Total Impact:	Total Adm. - Current Adm.	= 90 beds

The above estimates were prepared by the Division of Criminal Justice and are based on the following assumptions: 1) offenders sentenced under the violent crime statute are sentenced in the aggravated sentencing range; 2) convictions for child abuse and manslaughter will not increase; 3) all people convicted of child abuse and manslaughter will be incarcerated; and 4) offenders serving sentences for manslaughter and child abuse will serve on an average of 75 percent of the sentence imposed.

In addition, the committee recommends that the penalty for the crime of sexual assault on a child be increased from a Class 4 felony to a Class 3 felony. Section 3 of Bill 1 accomplishes this objective and requires that the defendant be sentenced in accordance with the crime of violence provisions if the offense of sexual assault on a child is committed by use of force, intimidation, or threat.

The projected impact of this change is the need for an additional 360 beds. The initial impact would be realized in 5 years from the effective date of the proposed law and the full impact would be realized in 16 years. The current average sentence length for a Class 4 sexual assault on a child is 4.8 years; the current average sentence length for a Class 3 sexual assault on a child is 11.5 years. Because the crime of sexual assault on a child is defined as a crime of violence under the committee proposal, it is assumed that the sentences would be at the top of the sentencing range for a Class 3 felony, or 16 years. By increasing the penalty for sexual assault on a child one felony class, the average increase in sentence length would be 11.2 years (133.4 months). Because sexual assault on a child is a crime of violence and mandatory parole at the midpoint of the sentence length no longer exists, it is assumed that this type of offender will not be paroled at the first parole eligibility date, but will serve on an average 75 percent of the sentence imposed.

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In FY 1986-87, 24 people were incarcerated for a Class 3 felony sexual assault on a child; 32 people were incarcerated for a Class 4 felony sexual assault on a child. The impact to the prison population is the impact of the proposed change minus the current sexual assault on child admissions population, as follows:

New Law Impact	56 people	x 16 years x 75%	= 672 beds
Current Sexual Assault	24 (felony 3's)	x 11.5 years x 75%	= 207 beds
On Child Admissions:	32 (felony 4's)	x 4.8 years x 75%	= 115 beds
Total Impact	New Law Impact - Current Law Impact = 350 beds		

The above estimates prepared by the Division of Criminal Justice are based on the following assumptions: 1) current commitment rates for sexual assault on a child will remain stable; 2) offenders sentenced in FY 1986-87 were sentenced under H.B. 1589 or were not sentenced in the aggravated sentencing range; 3) sentences under the law as proposed will be at the top of the sentencing range under the violent offender statute; and 4) offenders serving sentences for sexual assault on a child will serve an average 75 percent of the sentence imposed.

The creation of a new criminal offense is recommended. Bill 10 expands the offense of first degree murder to include deaths resulting from the commission of certain drug offenses when such offense result in the death of a person. The fiscal impact of this recommendation has not been determined at this time.

Changes to the Death Penalty Statute

Several changes to the death penalty statute are recommended. Bill 2 would implement these suggested changes and would clarify the balancing tests used by a sentencing jury to determine whether a defendant should be sentenced to death or life imprisonment. In addition, the bill would add a defendant's prior conviction of a Class 3 violent felony to the list of aggravating factors to be considered for imposition of the death penalty. Also, the bill requires that the Colorado Supreme Court review and render a final opinion on capital cases within a specified period of time from the time the sentencing court certifies the entire record. The bill provides for a further extension of such time period for good cause shown. Bill 2 would also change the method of execution from death by lethal gas to death by lethal injection.

Victims' Rights

Three bills are recommended for approval which relate to victim's assistance programs. Bill 3 would authorize the Victims and Witnesses Assistance and Law Enforcement Board to contract for services concerning victims and their families. Bill 4 adds convicts to the statute relating to the prohibition against profiting from one's own crime by way of selling rights to a movie or book or any other representation of the crime.

Bill 5 would repeal the sunset provision concerning the Assistance to Victims and Witnesses to Crimes and Aid to Law Enforcement Act which is due to sunset on July 1, 1988. This will allow the act to continue beyond the July 1, 1988 termination date.

Provisions Concerning Parole

Four changes to the statutes governing the parole system are recommended. Section 17 of Bill 1 clarifies the provisions concerning the parole of violent offenders. Section 27 of Bill 1 repeals section 16-11-310, C.R.S., which states that an incarcerated person shall be unconditionally released and discharged upon expiration of his sentence. This provision conflicts with other statutes governing the parole system.

Section 19 of Bill 1 requires the Division of Adult Services to establish an information system which provides information to law enforcement agencies on parolees who are currently under the jurisdiction of the Department of Corrections. The Division is to furnish its information to the affected law enforcement agency no later than 24 hours before a person's release to parole, and prior to 24 hours before the parolee's final discharge from parole, or no later than 24 hours after a parolee's return to confinement by virtue of a new criminal conviction or revocation of parole. Section 13 of Bill 1 provides that a parole violator returned to the custody of the Department of Corrections does not have to be confined in the diagnostic center to undergo diagnostic services.

Enforcement of Orders of Restitution Entered in Criminal Cases

The committee recommends the adoption of Bill 7. This bill adds a provision that an order of restitution entered in a criminal case shall be a final judgment and shall have all the force and effect of a final judgment. Such final judgment can be enforced by the state or a victim named in the order to receive the restitution or the victim's immediate family in the same manner as a judgment in a civil action.

Home Detention

Sections 5, 6, and 7 of Bill 1 pertain to the use of home detention as a sentencing alternative. Sections 5 and 6 authorize the use of home detention as a condition of probation or parole. Although home detention has been utilized in the past, there has not been statutory authorization for such practice. Section 7 amends the definition of "home detention" in the county jail work release statutes adopted this year (House Bill 1242) by changing the description of the electronic devices used for such detention.

AIDS Testing For Persons Charged With Any Sexual Offense.

The committee recommends Bill 9 to require the court to order an AIDS virus blood test for any person charged with a sexual criminal offense. The results of such test are to be reported to the court, and the bill requires the court to disclose the results of such test to any victim of the sexual offense who has requested such disclosure. Any victim who is informed of the test results is subject to the confidentiality provisions of the statute concerning AIDS.

Costs and Cost Avoidance of
Committee Recommendations

A preliminary analysis of the various costs associated with implementation of the committee's recommendations contained in Bills 1 and 11, and the recommendations contained in the immediate capacity expansion proposal, as set forth in Table VIII, shows that approximately \$151,522,950 will be necessary over the next five and one-half years to implement the recommendations. However, these recommendations will avoid having to spend \$245,641,500 for prison construction and \$356,813,875 will be avoided in operating costs for prison facilities which will not be built. The net savings, or avoidance costs, amounts to \$541,332,075 without any construction, and \$450,932,425 with inclusion of the recommended construction projects.

TABLE VIII
COSTS AND COST AVOIDANCE OF COMMITTEE RECOMMENDATIONS

<u>Item</u>	<u>Cost to Implement through FY 1992-93</u>	<u>Construction Cost Avoided</u>	<u>FY 1987-88 Operating Cost Avoided</u>	<u>Operating Cost Avoided through FY 1992-93</u>
Sentencing Law Change - 1,702	0	\$130,432,500	\$ 841,750	\$250,147,750
Double-Bunking - 157	\$11,162,550	12,010,500	726,125	5,123,625
County Jail Contract - 250	20,075,000	19,125,000	2,312,500	25,437,500
Out-of-State Contracts - 50	4,215,750	3,825,000	462,500	5,087,500
Expand Commu- nity Beds - 400	18,250,000	30,600,000	0	37,000,000
Expand ISP Probation - 350	3,587,500	26,775,000	0	32,375,000
Boot Camp Program - 120	3,832,500	22,873,500	328,500	1,642,500
SUBTOTAL OF IMMEDIATE CAPACITY EXPANSION AND SENTENCING LAW CHANGE - 3,429	\$61,123,300	\$245,641,500	\$4,671,375	\$356,813,875
NET SAVINGS W/O CONSTRUCTION	\$541,332,075			
Denver Diag- nostic - 336	41,100,000	0	0	0
New 500-Bed Medium	38,250,000	0	0	0
Shadow Mountain	11,049,650	0	0	0
SUBTOTAL WITH CONSTRUCTION	90,399,650	0	0	0

<u>Item</u>	<u>Cost to Implement through FY 1992-93</u>	<u>Construction Cost Avoided</u>	<u>FY 1987-88 Operating Cost Avoided</u>	<u>Operating Cost Avoided through FY 1992-93</u>
NET SAVINGS INCLUDING CONSTRUCTION PROJECTS	\$450,932,425			

* These figures are based on the following data: Operating cost per bed of \$18,500, construction cost of \$76,500 per bed for a medium security facility, construction cost of \$122,321 per bed for the Denver Diagnostic Facility, double-bunking operating costs of \$12,898 per year per bed and double-bunking capital costs of \$3,384, county jail costs of \$40 per day, out-of-state contract costs at \$42 per day, community corrections costs at \$25 per day, and ISP-Probation costs at \$2,050 per year per person. This data was obtained from the FY 1987-88 Long Bill, the Governor's proposal submitted to the committee, and from the Judicial Department's budget request.

Revenue Raising Sources
to Pay for Increased Capacity Needs

The committee reviewed three proposals to raise sufficient revenue as a source of funds to pay for the prison capacity expansion proposals recommended above. Although no action was taken on any of the proposals, they are summarized below for the information of interested persons.

Representative Faatz Proposal

Representative Faatz proposed to raise revenue by maximizing existing tax sources and by increasing or imposing taxes on discretionary spending items. Two options were presented -- one raising approximately \$59.3 million and the other raising approximately \$67.7 million. The proposal is summarized below:

<u>Maximize Present Tax Source</u>	<u>Option A</u>	<u>Option B</u>
1. Vendor fees		
(Option A) Reduce and graduate sales & use tax vendor fee	\$10.0 M	
(Option B) Reduce fee to 2 1/3%		\$ 6.4 M
2. Cigarette vendor fees		
Reduce discount for cigarette wholesalers to 2%	1.1	1.1
3. Collection of sales tax		
Earlier payment of sales tax (moving date 10 days earlier could produce up to [very optimistically] \$21). A middle number was selected arbitrarily.	10.0	10.0
 <u>Discretionary Spending</u>		
1. Cigarettes		
(Option A) Increase cigarette tax 5 cents	15.8	
(Option B) Impose state sales tax		11.0
2. Liquor taxes		
Increase by 10%	2.3	2.3
3. Impose sales tax on amusement and recreational services (\$28.5-30.0 M)	<u>28.5</u>	<u>28.5</u>
	\$67.7 M	\$59.3 M

Governor Romer Proposal

In a letter to the committee, Governor Romer suggested the following finance package which would raise approximately \$33.3 million a year and be used to finance construction of the Denver Diagnostic Center, one 500-bed medium security prison, and the construction and renovation of the Shadow Mountain Facility. The proposal is summarized below:

Sales tax on cigarettes, tobacco products	\$11.0 million
Sales tax on interstate telephone	14.0 million
Raise excise tax on beer from 8 cents to 13 cents per gallon	4.2 million
Raise excise tax on wine from 7.33 cents to 12.33 cents per liter	1.8 million
Raise excise tax on spirituous beverages from 60.26 cents to 70.26 cents per liter	<u>2.3 million</u>
TOTAL	\$33.3 million

Representative Schauer Proposal

Representative Schauer proposed the authorization of electronic gaming (Lotto) to be implemented to complement the existing instant games of the lottery. The additional proceeds to be realized from implementation of the "Lotto" program would be dedicated to funding new prison construction. Table IX demonstrates the projection of Lotto sales in Colorado assuming an implementation date of September 1, 1988. This information is provided by the Lottery Division and is current as of October 5, 1987. The estimates are based on the experiences of states similar to Colorado that have recently introduced Lotto. Prizes are estimated at 50 percent of sales, and administrative costs are inflated at a rate of 4.6 percent over the base year. The projections by the Lottery Division indicate the following:

- Lotto sales in Colorado would produce \$157.6 million over a five year, ten month period. Total proceeds for the same period would be \$305.8 million (including instant games).
- Instant game sales would decrease somewhat (\$-16.4 million) over this period due to the cannibalizing effect of Lotto. However, it is projected that instant game sales would decline without implementation of Lotto, from \$30.1 million in fiscal years 1988-90 to \$24.9 million in FY 1993-94.
- The difference in total net revenues from the combination of Lotto and Instant games would be an additional \$141.3 million over five years and ten months. The capital construction share of this increase, given the current distribution formula, would be \$70.6 million (50 percent).

The current distribution formula for lottery proceeds is detailed in statute (Section 24-35-210, C.R.S.) as follows: After payment of prizes (which must constitute at least 50 percent of the lottery fund) and administrative expenses, the remaining proceeds are distributed to

the state capital construction fund (50 percent), the Conservation Trust Fund (40 percent), and the state Division of Parks and Recreation (10 percent). If Lotto were authorized, the existing lottery statutes would have to be amended to provide for other funding distribution, such as for prison construction.

Committee Recommendations -- Revenues

The committee makes no recommendations on any of the above proposed revenue raising measures to provide funds for prison capacity expansion. However, approval of a measure is recommended to provide for a voluntary contribution on state income tax returns to provide funding for prison construction or operation expenses. Bill 6 would establish a voluntary contribution on state income tax returns to pay for the construction or operation of prisons. The proposed bill requires that amounts so contributed and designated and interest earned thereon be credited to a Colorado prison construction fund, and be appropriated to the Department of Corrections for the construction or operation of prisons. The act would be repealed on January 1, 1992, unless the act is continued or reestablished by the General Assembly.

TABLE IX

Colorado Lottery
 Lotto Estimated Proceeds
 As of October 5, 1987
 (Dollars in Thousands)

*** Current Games & Lotto ***

Fiscal Year	88-89	89-90	90-91	91-92	92-93	93-94	Total
Months of Lotto Sales	10	12	12	12	12	12	70
Lotto Sales	35,635	62,147	86,902	96,163	108,733	119,268	508,848
Prizes	17,818	31,074	43,451	48,082	54,367	59,634	254,426
Administrative Costs	9,225	12,951	16,284	17,690	19,526	21,112	96,788
Proceeds From Lotto	8,592	18,122	27,167	30,391	34,840	38,522	157,634
=====							
Total Income Current Games	95,988	96,800	96,800	96,800	96,800	96,800	579,988
Prizes	46,994	47,400	47,400	47,400	47,400	47,400	283,994
Administrative Costs	22,625	23,337	24,146	24,992	25,877	26,803	147,780
Proceeds From Current Games	26,369	26,063	25,254	24,408	23,523	22,597	148,214
=====							
Total Proceeds With Lotto and Current Games	34,961	44,185	52,421	54,799	58,363	61,119	305,848
=====							

*** Current Games Only ***

Fiscal Year	88-89	89-90	90-91	91-92	92-93	93-94	Total
Total Income Current Games	104,500	104,500	104,500	104,500	104,500	104,500	627,000
Prizes	51,250	51,250	51,250	51,250	51,250	51,250	307,500
Administrative Costs	23,137	23,919	25,574	26,549	27,385	28,353	154,917
Proceeds From Current Games	30,113	29,331	27,676	26,701	25,865	24,897	164,583
=====							

*** Difference With Lotto Added to Current Games ***

Fiscal Year	88-89	89-90	90-91	91-92	92-93	93-94	Total
Increase/(Decrease) With Lotto Added to Current Games	4,848	14,854	24,745	28,098	32,498	36,222	141,265
=====							

BILL SUMMARIES

Concerning the Criminal Justice System, and Making an Appropriation Therefor -- Bill 1

Bill 1 is an omnibus bill which contains many different recommendations in the area of sentencing law changes, increasing or reducing the penalty for specified crimes, establishment of new correctional programs, providing for the establishment of a criminal justice commission, and necessary amendments to the parole statutes. All of the provisions of Bill 1 have previously been discussed in this report. Briefly, the bill provides for the following:

- Sections 1, 2, and 3 adds the crimes of child abuse and manslaughter to the definition of "crime of violence" and increases the penalty for the crime of sexual assault on a child from a Class 4 felony to a Class 3 felony.
- Section 4 is a major sentencing law change and decreases the presumptive range of sentencing for nonviolent Class 4 and Class 5 felony offenders and provides that the revised presumptive ranges apply retroactively to persons sentenced for a Class 4 or Class 5 felony committed on or after July 1, 1985.
- Sections 5, 6, and 7 authorize the use of "home detention" as a condition of probation or parole and changes the definition of "home detention."
- Sections 8 through 10 authorize a regimented inmate discipline pilot program.
- Sections 11 through 16 and section 18 provide for the establishment of drug and alcohol treatment programs, allows such treatment programs to be a sentencing alternative, requires that the presentence report include information on known abuse, includes treatment programs in the diagnostic center's evaluation, authorizes the Executive Director of the Department of Corrections to contract for such treatment programs, includes participation in such programs in determining whether an inmate gets earned time, and includes participation in such programs in establishing parole guidelines.
- Section 15 authorizes the establishment of a pilot program which implements intensive counseling for inmates.
- Sections 20 through 24 authorize the Executive Director of the Department of Corrections to contract with county sheriffs for the placement of state prisoners in county jails.
- Sections 13, 17, 19, and 27 pertain to parole provisions and parole violators. Parole violators who are returned to the custody of the department do not have to be confined in the

diagnostic center to undergo diagnostic services. Ambiguous provisions concerning the parole of violent offenders are clarified. Information on parolees who are under the jurisdiction of the department is to be furnished to law enforcement agencies. A statute which conflicts with other statutes concerning parole is repealed.

- Section 25 prohibits a private contract prison facility from incarcerating an inmate from a state other than Colorado, unless the approval of the Executive Director of the Department of Corrections is obtained.
- Section 26 establishes a criminal justice commission to study issues relating to corrections and sentencing.
- Section 28 provides for three appropriations: To the Department of Corrections; to the Department of Public Safety; and to the Judicial Department.
- Section 29 provides for effective dates and applicability provisions for the act.

Concerning Procedures Relating to the Death Penalty -- Bill 2

Bill 2 makes several changes to the procedures necessary for imposing the death penalty and changes the method of infliction of the death penalty from lethal gas to lethal injection. The balancing tests used by a sentencing jury to determine whether a defendant should be sentenced to death or life imprisonment are clarified. A defendant's prior conviction of a Class 3 violent felony is added to the list of aggravating factors to be considered for imposition of the death penalty. The bill requires the Colorado Supreme Court to review and render a final opinion on capital cases within a specified period (60 days after certification by the sentencing court of the entire record), unless the time is extended for an additional 30 days by the Supreme Court for good cause shown.

Concerning the Grant of Authority to Contract for Services Relating to Victims and Their Families to the Victims and Witnesses Assistance and Law Enforcement Board -- Bill 3

Bill 3 authorizes the Victims and Witnesses Assistance and Law Enforcement Board to contract for services concerning victims and their families.

Concerning the Inclusion of Convicts in the Statute Relating to the Prohibition of Profiting From One's Crime -- Bill 4

Bill 4 adds "convicts" to the statute relating to the prohibition against profiting from one's own crime by way of selling rights to a

movie or book or any other representation of the crime.

Concerning the Repeal of the Sunset Provision on the Assistance to Victims of And Witnesses to Crimes and Aid to Law Enforcement Act -- Bill 5

Bill 5 repeals the sunset provision concerning the Assistance to Victims of and Witnesses to Crimes and Aid to Law Enforcement Act, which was due to terminate on July 1, 1988.

Concerning Voluntary Contributions on state Income Tax Returns to Provide Funding for the Construction or Operation of Prisons -- Bill 6

Bill 6 establishes for income tax years commencing on or after January 1, 1988, but prior to January 1, 1991, a voluntary contribution on state income tax returns to pay for the construction or operation of prisons. The amounts contributed and interest earned thereon are to be credited to the Colorado Prison Construction Fund, which is created by the bill, and are to be appropriated to the Department of Corrections for the construction or operation of prisons. The bill would be repealed on January 1, 1992, unless continued or reestablished by the General Assembly.

Concerning Enforcement of Orders of Restitution Entered in Criminal Cases -- Bill 7

Bill 7 provides that an order of restitution entered in a criminal case is a final judgment and that, as a final judgment, can be enforced by the state, the victim, or the victim's immediate family in the same manner as a judgment in a civil action.

Concerning the Expansion of Facilities at Shadow Mountain Correctional Facility, and Making an Appropriation Therefor -- Bill 8

Bill 8 provides for the expansion of core facilities at Shadow Mountain correctional facility, including facilities for dining and food service, vocational education, activities and indoor recreation, medical and dental services, education programs and library services in a core building, upgrading of the perimeter security system, expansion of areas for employment opportunities, and the remodeling and remodeling of existing housing units for the purpose of double-bunking 96 inmates. The bill includes an appropriation of \$7,882,528 for such purpose.

Concerning a Requirement That Persons Charged With Any Unlawful Sexual Behavior Offense Be Tested for the Human Immunodeficiency Virus Which Causes Acquired Immune Deficiency Syndrome, and, In Connection Therewith, Providing for Disclosure of the Results of Said Test to Any Victim of the Offense -- Bill 9

Bill 9 requires the court to order an AIDS virus blood test for any person charged with a sexual criminal offense. The results of the test are to be disclosed by the court to any victim of the sexual offense who requests such disclosure. The bill provides that any victim told of the results of such test is subject to the confidentiality provisions of the statute concerning AIDS.

Concerning the Expansion of the Offense of First Degree Murder to Include Deaths Resulting From the Commission of Drug Offenses -- Bill 10

Bill 10 expands the offense of first degree murder to include deaths resulting from the commission of certain drug offenses.

Concerning Facilities For The Confinement Of Persons Convicted Of A Crime, And, In Connection Therewith, Making An Appropriation For the Design, Completion, And Construction Of The Denver Metropolitan Area Diagnostic Center, The Design And Construction Of A Medium Security Prison, And The Design And Construction For The Expansion And Remodeling Of The Shadow Mountain Correctional Facility -- Bill 11

Bill 11 appropriates \$90,399,650 to the Department of Corrections to fund the design, completion, and construction of the Denver Area Diagnostic Center, the design and construction of a medium security prison, and the design and construction for the expansion and remodeling of the Shadow Mountain correctional facility.

Resolution to Appoint A Committee To Study Issues Relating To Privatization of Corrections -- Joint Resolution No. 1

Joint Resolution No. 1 would direct the Legislative Council to appoint a committee to conduct a study to address the issues involved with the question of whether the state should enter into agreements with private entities for the construction of, or operation of, prison facilities. The committee appointed is to submit its findings and recommendations to the First Regular Session of the Fifty-seventh General Assembly (1989 Session).

BILL 1

A BILL FOR AN ACT

1 CONCERNING THE CRIMINAL JUSTICE SYSTEM, AND MAKING AN
2 APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Sections 1 and 2 add the crimes of child abuse and manslaughter to the definition of "crime of violence" in the code of criminal procedure.

Section 3 increases the penalty for the crime of sexual assault on a child from a class 4 felony to a class 3 felony and deletes the statutory language concerning aggravating factors which raise the penalty for said offense from a class 4 felony to a class 3 felony. In addition, section 3 requires that the defendant be sentenced in accordance with the crime of violence provisions if the offense of sexual assault on a child is committed by use of force, intimidation, or threat.

Section 4 decreases the presumptive range of sentencing for nonviolent class 4 and class 5 felony offenders and provides that the revised presumptive ranges apply retroactively to persons sentenced for a class 4 or class 5 felony committed on or after July 1, 1985.

Sections 5 and 6 authorize the use of home detention as a condition of probation or parole.

Section 7 changes the definition of "home detention" as used in the context of criminal sentencing by changing the description of the electronic devices used for such detention.

Sections 8-10 authorize a regimented inmate discipline pilot program which uses several methods to rehabilitate inmates, including military discipline, physical training, and counseling. Said sections also allow the division of criminal

justice in the department of public safety to contract for such program and to establish and enforce standards for its operation. In addition, such sections specify eligibility requirements for offenders participating in the program and allow the offenders an accelerated earned time deduction upon successful completion of such participation.

Section 11 allows drug and alcohol treatment programs to be a sentencing alternative in sentencing for criminal offenses.

Section 12 adds as information required to be in a presentence report any known drug or alcohol abuse.

Section 13 includes drug or alcohol treatment programs in the diagnostic center's evaluation of an inmate and provides that a parole violator who is returned to the custody of the department of corrections does not have to be confined in the diagnostic center to undergo diagnostic services.

Sections 14 and 15 require the executive director of the department of corrections to provide drug and alcohol rehabilitation treatment programs for inmates who are in need of such treatment as determined by the court in its sentence or by the diagnostic center and authorize the executive director of the department of corrections to contract for said treatment programs. Section 15 also declares that individuals who commit crimes are accountable and responsible for their own actions and that intensive counseling programs are needed to assure prevention of further criminal activity. Said section also authorizes the executive director of the department of corrections to establish a four-year pilot program which implements intensive counseling programs for inmates during incarceration or parole and requires said director to evaluate and study the effectiveness of the pilot program and to submit written findings annually to the general assembly. In addition, section 15 authorizes the executive director to select which inmates are to be included in the pilot program's evaluation and study and authorizes him to contract with private persons to perform counseling services.

Section 16 includes participation in drug or alcohol treatment programs in determining whether an inmate gets earned time.

Section 17 clarifies parole provisions concerning violent offenders.

Section 18 includes participation in drug or alcohol treatment programs in establishing parole guidelines.

Section 19 requires the division of adult services to establish an information system which provides information to law enforcement agencies on parolees who are currently under the jurisdiction of the department of corrections.

Sections 20-24 authorize the executive director of the department of corrections to contract with county sheriffs for the placement of prisoners under his custody in county jails and specify that placement in the county jails under contract shall not be made until the evaluation and diagnostic procedures which are available to all persons under the

custody of the executive director have been completed. Said sections also require the board of county commissioners in each county desiring to contract with the department to notify the department of available jail space and the daily charge for such space. In addition, said sections require the department of corrections to contract with willing counties for jail space commencing with the fiscal year beginning July 1, 1988, and to include the costs of jail space contracts in its budget request to the joint budget committee.

Section 25 prohibits a private contract prison facility from incarcerating an inmate from a state other than Colorado, unless the approval of the executive director of the department of corrections is obtained.

Section 26 establishes a criminal justice commission to study issues relating to corrections and requires said commission to consist of fifteen members from various groups. Section 26 also requires the commission to report recommendations to the governor and the general assembly.

Section 27 repeals section 16-11-310, C.R.S., which states that an incarcerated person shall be unconditionally released and discharged upon expiration of his sentence and which conflicts with the statutes concerning parole.

Section 28 makes three appropriations: To the department of corrections; to the department of public safety for allocation to the division of criminal justice; and to the judicial department.

Section 29 provides for effective dates and applicability provisions for the act.

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

2 SECTION 1. 16-1-104 (8.5) (a) (I), Colorado Revised
3 Statutes, 1986 Repl. Vol., as amended, is amended to read:

4 16-1-104. Definitions. (8.5) (a) (I) "Crime of
5 violence" means a crime in which the defendant used, or
6 possessed and threatened the use of, a deadly weapon during
7 the commission or attempted commission of any crime committed
8 against an elderly or handicapped person or a crime of murder,
9 first or second degree assault, kidnapping, sexual assault,
10 robbery, first degree arson, first or second degree burglary,
11 escape, MANSLAUGHTER, CHILD ABUSE, or criminal extortion, or

1 during the immediate flight therefrom, or the defendant caused
2 serious bodily injury or death to any person, other than
3 himself or another participant, during the commission or
4 attempted commission of any such felony or during the
5 immediate flight therefrom.

6 SECTION 2. 16-11-309 (2) (a) (I), Colorado Revised
7 Statutes, 1986 Repl. Vol., is amended to read:

8 16-11-309. Mandatory sentences for violent crimes.

9 (2) (a) (I) "Crime of violence" means a crime in which the
10 defendant used, or possessed and threatened the use of, a
11 deadly weapon during the commission or attempted commission of
12 any crime committed against an elderly or handicapped person
13 or a crime of murder, first or second degree assault,
14 kidnapping, sexual assault, robbery, first degree arson, first
15 or second degree burglary, escape, MANSLAUGHTER, CHILD ABUSE,
16 or criminal extortion, or during the immediate flight
17 therefrom, or the defendant caused serious bodily injury or
18 death to any person, other than himself or another
19 participant, during the commission or attempted commission of
20 any such felony or during the immediate flight therefrom.

21 SECTION 3. 18-3-405 (2) and (3), Colorado Revised
22 Statutes, 1986 Repl. Vol., are amended to read:

23 18-3-405. Sexual assault on a child. (2) Sexual
24 assault on a child is a ~~class-4~~ CLASS 3 felony. ~~but-it-is-a~~
25 ~~class-3-felony-if:~~

26 ~~(a) The actor commits the offense on a victim by use of~~
27 ~~such force, intimidation, or threat as specified in section~~

1 ~~18-3-402-(1)-(a),-(1)-(b),-or-(1)-(c);-or~~

2 ~~(b) The actor who commits the offense on a victim is one~~
3 ~~in a position of trust with respect to the victim.~~

4 (3) If a defendant is convicted of ~~the class 3 felony of~~
5 sexual assault on a child pursuant ~~to paragraph (a) of~~
6 ~~subsection (2) of this section~~ AND SAID OFFENSE WAS COMMITTED
7 BY THE USE OF FORCE, INTIMIDATION, OR THREAT AS SPECIFIED IN
8 SECTION 18-3-402 (1) (a), (1) (b), OR (1) (c), the court shall
9 sentence the defendant in accordance with the provisions of
10 section 16-11-309, C.R.S.

11 SECTION 4. 18-1-105 (1) (b), Colorado Revised Statutes,
12 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW
13 SUBPARAGRAPH to read:

14 18-1-105. Felonies classified - presumptive penalties.

15 (1) (b) (IV) (A) Notwithstanding anything in this section to
16 the contrary, for any person who commits a class 4 felony,
17 which felony is not a crime of violence as defined in section
18 16-11-309, C.R.S., and which felony is not a class 4 felony as
19 set forth in sections 9-6-104, 18-3-104, 18-3-106, 18-3-203,
20 18-3-207, 18-3-302, 18-3-305, 18-3-403, 18-3-404, 18-4-103,
21 18-4-104, 18-4-105, 18-4-203, 18-4-301, 18-4-409, 18-4-501,
22 18-6-102, 18-6-401, 18-8-105, 18-8-203, 18-8-204.1, 18-8-306,
23 18-8-608, 18-8-704, 18-9-103, 18-9-104, 18-9-116.5, 18-9-119
24 (5), 18-12-102 (3), 18-12-108, 18-12-109 (2), (5), (6), and
25 (8), 18-13-104, 18-15-107, and 42-4-1401, C.R.S., the
26 presumptive range shall be two to four years. For any person
27 who commits a class 5 felony, which felony is not a crime of

1 violence as defined in section 16-11-309, C.R.S., and which
2 felony is not a class 5 felony as set forth in sections
3 18-3-105, 18-3-202 (2) (a), 18-3-205, 18-3-206, 18-3-209,
4 18-3-304 (1) and (2), 18-4-409 (4), 18-6-103, 18-7-203,
5 18-8-105 (4) and (5), 18-8-201.1, 18-8-208 (6) (c) and (8),
6 18-8-208.1, 18-8-210, 18-8-211, 18-9-102, 18-9-119, 18-9-120,
7 18-12-102 (3), 18-12-107, 18-12-108, 18-12-109 (7), and
8 42-2-206, C.R.S., the presumptive range shall be one to two
9 years.

10 (B) This subparagraph (IV) shall take effect upon
11 passage and shall apply to persons sentenced for felonies
12 committed on or after July 1, 1985.

13 SECTION 5. 16-11-204 (2), Colorado Revised Statutes,
14 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A
15 NEW PARAGRAPH to read:

16 16-11-204. Conditions of probation. (2) (k.5) Be
17 subject to home detention as defined in section 17-26-128
18 (1.1), C.R.S.;

19 SECTION 6. 17-2-201 (5)(b), Colorado Revised Statutes,
20 1986 Repl. Vol., is amended to read:

21 17-2-201. State board of parole. (5) (b) Conditions
22 imposed for parole may include, but are not limited to,
23 requiring that the offender pay reasonable costs of
24 supervision of parole OR PLACING THE OFFENDER ON HOME
25 DETENTION AS DEFINED IN SECTION 17-26-128 (1.1).

26 SECTION 7. 17-26-128 (1.1), Colorado Revised Statutes,
27 1986 Repl. Vol., as amended, is amended to read:

1 offenders through the imposition of military discipline, the
2 general assembly encourages the use of former military drill
3 sergeants in the operation of such programs.

4 17-27-202. Regimented inmate discipline programs -
5 authorization - standards for operation. (1) The division of
6 criminal justice in the department of public safety is hereby
7 authorized to contract with a corrections board or
8 nongovernmental agency for the provision of a regimented
9 inmate discipline pilot program. At a minimum, such program
10 shall include training in military discipline, physical
11 training, counseling, community service, vocational training,
12 and education classes that emphasize self discipline, respect
13 toward society, and obedience to the law. The division of
14 criminal justice may establish and enforce standards for the
15 operation of such program.

16 (2) The regimented inmate discipline pilot program shall
17 last ninety days for any offender; except that the operator of
18 such program may extend it to one hundred twenty days for any
19 offender.

20 (3) Except as otherwise provided in this part 2, such
21 program shall be subject to the provisions of part 1 of this
22 article.

23 17-27-203. Eligibility of offenders. (1) Eligibility
24 for the regimented inmate discipline pilot program shall be
25 limited to offenders who are eighteen years of age or older
26 and under twenty-five years of age and who have not served a
27 previous sentence in a state correctional facility. Such

1 offenders shall also be free of any physical or mental defect
2 which could endanger their health or affect their performance
3 in the program.

4 (2) The executive director may assign an eligible
5 offender to the regimented inmate discipline pilot program
6 pursuant to section 17-40-102. The court, at the time it
7 sentences an eligible offender to the department of
8 corrections, may recommend that such offender be assigned to
9 the regimented inmate discipline pilot program. No more than
10 sixty offenders at a time shall be assigned to the program,
11 with a maximum of two hundred forty offenders per year.

12 17-27-204. Eligibility after completion of the program -
13 good time deduction. (1) Following successful completion of
14 the regimented inmate discipline pilot program, an offender
15 shall be returned to the custody of the department of
16 corrections for assignment to community corrections, an
17 intensive supervision program established pursuant to article
18 27.5 of this title, or parole.

19 (2) Any offender who successfully completes the
20 regimented inmate discipline pilot program shall be entitled
21 to an earned time deduction of one hundred eighty days from
22 his sentence.

23 17-27-205. Repeal of part. This part 2 is repealed,
24 effective July 1, 1990.

25 SECTION 9. 17-40-102 (2), Colorado Revised Statutes,
26 1986 Repl. Vol., is amended to read:

27 17-40-102. Program established. (2) The primary

1 function and purpose of the program shall be to provide a
2 diagnostic examination and evaluation of all offenders
3 sentenced by the courts of this state, so that each such
4 offender may be assigned to a correctional institution OR A
5 PROGRAM ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 27 OF THIS
6 TITLE which has the type of security and, to the extent
7 possible, appropriate programs of education, employment, and
8 treatment available, which are designed to accomplish maximum
9 rehabilitation of such offender and to prepare an offender for
10 placement into as productive an employment as possible
11 following imprisonment.

12 SECTION 10. 17-40-103 (1) (a), Colorado Revised
13 Statutes, 1986 Repl. Vol., is amended to read:

14 17-40-103. Examination of offenders - report.

15 (1) (a) Assigned to a correctional institution OR A PROGRAM
16 ESTABLISHED PURSUANT TO PART 2 OF ARTICLE 27 OF THIS TITLE,
17 unless otherwise prohibited by law, based upon the examination
18 and study of the offender; or

19 SECTION 11. 16-11-101 (1), Colorado Revised Statutes,
20 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
21 to read:

22 16-11-101. Alternatives in sentencing. (1) (i) The
23 defendant may be sentenced to complete drug or alcohol
24 treatment programs in conjunction with any other sentence
25 imposed, including, but not limited to, programs established
26 by the executive director pursuant to section 17-1-103.5,
27 C.R.S.

1 SECTION 12. 16-11-102 (1), Colorado Revised Statutes,
2 1986 Repl. Vol., is amended to read:

3 16-11-102. Presentence or probation investigation.

4 (1) Following the return of a verdict of guilty of a felony,
5 other than a class 1 felony, or following a finding of guilt
6 on such charge where the issues were tried to the court, or on
7 a plea of guilty or nolo contendere to such a charge, or upon
8 order of the court in any misdemeanor conviction, the
9 probation officer shall make an investigation and written
10 report to the court before the imposition of sentence. Each
11 presentence report shall include, but not be limited to,
12 information as to the defendant's family background,
13 educational history, employment record, and past criminal
14 record, an evaluation of the alternative dispositions
15 available for the defendant, ANY KNOWN ABUSE OF DRUGS OR
16 ALCOHOL, the information required by the court pursuant to
17 section 16-11-204.5, a victim impact statement, and such other
18 information as the court may require. A victim impact
19 statement shall be prepared by the district attorney's office
20 on and after September 1, 1985. The department of social
21 services shall provide the district attorney's office with the
22 information necessary for the preparation of a victim impact
23 statement. In addition, the court, in cases that it deems
24 appropriate, may require the presentence report to include the
25 findings and results of a professionally conducted psychiatric
26 examination of the defendant. Within a reasonable time prior
27 to sentencing, copies of the presentence report, including any

1 recommendations as to probation, shall be furnished to the
2 prosecuting attorney and defense counsel or to the defendant
3 if he is unrepresented. A copy of the presentence report
4 shall be transmitted to the department of corrections together
5 with the mittimus.

6 SECTION 13. 16-11-308 (2), Colorado Revised Statutes,
7 1986 Repl. Vol., is amended to read:

8 16-11-308. Custody of the department of corrections -
9 procedure. (2) Any person sentenced pursuant to subsection
10 (1) of this section shall initially be confined in the
11 diagnostic center, as defined in section 17-40-101 (1.5),
12 C.R.S., to undergo evaluation and diagnosis to determine
13 whether he should be confined in a correctional facility or
14 any other state institution, or whether he should participate
15 in a rehabilitation program as provided by law, INCLUDING, BUT
16 NOT LIMITED TO, A DRUG OR ALCOHOL TREATMENT PROGRAM; except
17 that no person subject to the provisions of section 16-11-301
18 (2) shall serve his sentence in the correctional facility at
19 Canon City. THIS SUBSECTION (2) SHALL NOT APPLY TO A PAROLEE
20 WHO IS RETURNED TO THE CUSTODY OF THE EXECUTIVE DIRECTOR OR
21 HIS DESIGNEE FOR ANY PAROLE VIOLATIONS.

22 SECTION 14. 17-1-103 (1) (a), Colorado Revised Statutes,
23 1986 Repl. Vol., is amended to read:

24 17-1-103. Duties of executive director. (1) (a) To
25 manage, supervise, and control the penal, correctional, and
26 reformatory institutions operated and supported by the state;
27 to manage and supervise the agencies, boards, and commissions

1 which are or may be transferred to or established within the
2 department by law; to improve, develop, and carry forward
3 programs of counseling, INCLUDING BUT NOT LIMITED TO TREATMENT
4 PROGRAMS FOR ALCOHOL AND DRUG ABUSE, and parole supervision to
5 the end that persons now dependent upon tax-supported programs
6 may be afforded opportunity and encouragement to be restored
7 to productive independence;

8 SECTION 15. Article 1 of title 17, Colorado Revised
9 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
10 ADDITION OF THE FOLLOWING NEW SECTIONS to read:

11 17-1-103.5. Drug and alcohol treatment programs.

12 (1) The executive director shall provide drug and alcohol
13 rehabilitation treatment programs for persons sentenced to the
14 department who are in need of such treatment as determined by
15 the court in its sentence or by the diagnostic center pursuant
16 to section 16-11-308, C.R.S.

17 (2) The executive director may contract with private
18 persons for the drug and alcohol programs required by
19 subsection (1) of this section.

20 17-1-103.7. Intensive counseling pilot program -
21 legislative declaration - repeal. (1) The general assembly
22 hereby finds and declares that individuals who commit crimes
23 are directly accountable and responsible for their actions and
24 that intensive counseling programs to ensure accountability
25 and responsibility are essential to preventing further
26 criminal activity and further adding undue pressure on the
27 criminal justice system.

1 (2) The executive director is authorized to establish a
2 pilot program the purpose of which is to modify criminal
3 thought patterns through intensive psychological counseling
4 which stresses the inmate's own individual responsibility for
5 his actions. Such counseling programs may be used during an
6 inmate's incarceration as well as in the inmate's transition
7 back into society. If a counseling program is required during
8 an inmate's parole, the completion of such program shall be a
9 condition of parole.

10 (3) The executive director may contract with private
11 persons for the performance of the intensive counseling
12 programs, and the total number of inmates to whom counseling
13 services are provided under all such contracts shall not
14 exceed fifty.

15 (4) (a) The executive director shall evaluate and study
16 the effectiveness of the pilot program and shall submit
17 written findings on said effectiveness to the general assembly
18 no later than March 1, 1990, and no later than March 1 of each
19 year thereafter.

20 (b) The executive director is authorized to select which
21 inmates shall be included in the evaluation and study required
22 by paragraph (a) of this subsection (4).

23 (5) This section is repealed, effective January 1, 1993.

24 SECTION 16. 17-22.5-302 (1), Colorado Revised Statutes,
25 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
26 to read:

27 17-22.5-302. Earned time. (1) (e) Participation in

1 mandatory or voluntary drug or alcohol treatment programs.

2 SECTION 17. 17-22.5-303.3 (1) and (2), Colorado Revised
3 Statutes, 1986 Repl. Vol., as amended, are amended to read:

4 17-22.5-303.3. Violent offenders - parole. (1) Any
5 person sentenced for first or second degree murder, first
6 degree assault, first degree kidnapping, first or second
7 degree sexual assault, first degree arson, first degree
8 burglary, or aggravated robbery, committed on or after July 1,
9 1987, who has previously been convicted of a crime of
10 violence, shall be eligible for parole ONLY after he has
11 served seventy-five percent of the sentence imposed less any
12 time authorized for earned time pursuant to section
13 17-22.5-302. ~~Thereafter,---the---provisions---of---section~~
14 ~~17-22.5-303--(6)--and--(7)--shall--apply~~ UPON AN APPLICATION FOR
15 PAROLE, THE STATE BOARD OF PAROLE, WORKING IN CONJUNCTION WITH
16 THE DEPARTMENT AND USING THE GUIDELINES ESTABLISHED PURSUANT
17 TO SECTION 17-22.5-303.5, SHALL DETERMINE WHETHER OR NOT TO
18 GRANT PAROLE AND, IF GRANTED, THE LENGTH OF THE PERIOD OF
19 PAROLE, WHICH MAY BE FOR A PERIOD OF UP TO FIVE YEARS. IF AN
20 APPLICATION FOR PAROLE IS REFUSED BY THE STATE BOARD OF
21 PAROLE, THE STATE BOARD SHALL RECONSIDER WITHIN ONE YEAR
22 THEREAFTER THE GRANTING OF PAROLE TO SUCH PERSON AND SHALL
23 CONTINUE THE RECONSIDERATION EACH YEAR THEREAFTER UNTIL SUCH
24 PERSON IS GRANTED PAROLE OR UNTIL HE IS DISCHARGED PURSUANT TO
25 LAW. IN ADDITION, THE PROVISIONS OF SECTION 17-22.5-303 (7)
26 SHALL APPLY.

27 (2) Any person sentenced for any crime enumerated in

1 subsection (1) of this section who has twice previously been
2 convicted for a crime of violence shall be eligible for parole
3 after he has served the sentence imposed less any time
4 authorized for earned time pursuant to section 17-22.5-302.
5 ~~Thereafter,--the-provisions-of-section-17-22.5-303-(6)-and-(7)~~
6 ~~shall-apply~~ UPON AN APPLICATION FOR PAROLE, THE STATE BOARD OF
7 PAROLE, WORKING IN CONJUNCTION WITH THE DEPARTMENT AND USING
8 THE GUIDELINES ESTABLISHED PURSUANT TO SECTION 17-22.5-303.5,
9 SHALL DETERMINE WHETHER OR NOT TO GRANT PAROLE AND, IF
10 GRANTED, THE LENGTH OF THE PERIOD OF PAROLE, WHICH MAY BE FOR
11 A PERIOD OF UP TO FIVE YEARS. IF AN APPLICATION FOR PAROLE IS
12 REFUSED BY THE STATE BOARD OF PAROLE, THE STATE BOARD SHALL
13 RECONSIDER WITHIN ONE YEAR THEREAFTER THE GRANTING OF PAROLE
14 TO SUCH PERSON AND SHALL CONTINUE THE RECONSIDERATION EACH
15 YEAR THEREAFTER UNTIL SUCH PERSON IS GRANTED PAROLE OR UNTIL
16 HE IS DISCHARGED PURSUANT TO LAW. IN ADDITION, THE PROVISIONS
17 OF SECTION 17-22.5-303 (7) SHALL APPLY.

18 SECTION 18. 17-22.5-303.5 (2) (a) (IX), Colorado Revised
19 Statutes, 1986 Repl. Vol., is amended, and the said
20 17-22.5-303.5 (2) (a) is further amended BY THE ADDITION OF A
21 NEW SUBPARAGRAPH, to read:

22 17-22.5-303.5. Parole guidelines. (2) (a) (IX) The
23 offender's willingness to report as directed to the parole
24 officer; and

25 (XI) The offender's participation in a drug or alcohol
26 treatment program or his willingness to participate in such a
27 program.

1 SECTION 19. 17-2-102 (9), Colorado Revised Statutes,
2 1986 Repl. Vol., as amended, is amended to read:

3 17-2-102. Division of adult services - general powers,
4 duties, and functions. (9) Subject to available
5 appropriations, the division of adult services ~~is authorized~~
6 ~~to~~ SHALL establish and maintain an information unit which
7 includes an appropriate telecommunications system for the
8 purpose of providing to law enforcement agencies ~~upon--their~~
9 ~~request~~ accurate supervision information concerning any
10 parolee who is currently under the jurisdiction of the
11 department. Such information shall include the parolee's
12 ~~current status--with--the--department--and--the--name--of--the~~
13 ~~parolee's--parole--officer~~ NAME AND ANY ALIASES, IF KNOWN, AND
14 THE ADDRESS AND TELEPHONE NUMBER OF THE PAROLEE'S PAROLE
15 OFFICER. THE DIVISION SHALL FURNISH ITS INFORMATION TO THE
16 AFFECTED LAW ENFORCEMENT AGENCY:

17 (a) NO LATER THAN TWENTY-FOUR HOURS BEFORE A PERSON'S
18 RELEASE TO PAROLE; AND

19 (b) (I) PRIOR TO TWENTY-FOUR HOURS BEFORE THE PAROLEE'S
20 FINAL DISCHARGE FROM PAROLE; OR

21 (II) NO LATER THAN TWENTY-FOUR HOURS AFTER A PAROLEE'S
22 RETURN TO CONFINEMENT BY VIRTUE OF A NEW CRIMINAL CONVICTION
23 OR REVOCATION OF PAROLE.

24 SECTION 20. Part 3 of article 11 of title 16, Colorado
25 Revised Statutes, 1986 Repl. Vol., as amended, is amended BY
26 THE ADDITION OF A NEW SECTION to read:

27 16-11-308.5. Authority to contract with counties and

1 city and counties for placement of prisoners in custody of
2 executive director. (1) The general assembly hereby finds
3 and declares that the department of corrections needs to
4 reduce the backlog of state prisoners in county jails and that
5 such reduction may occur by means of contracting with county
6 jails for jail space in an amount equal to the number of
7 inmates backlogged in county jails. The general assembly also
8 finds and declares that it is the general assembly's intent
9 that the department of corrections cooperate with each
10 contracting county to select inmates for placement who will
11 eventually be released in that county or geographic area, or
12 who have special protective needs, or who have occupational
13 skills or plans that are compatible with the county's needs.

14 (2) (a) The executive director of the department of
15 corrections may enter into a contract with any county or city
16 and county for the placement in a county jail of any person
17 who is in the custody of the executive director.

18 (b) In any such placement in a county jail, the
19 executive director shall be governed by the provisions of
20 section 16-11-308 and shall retain jurisdiction over any
21 person so placed for the purpose of any transfer to a state
22 institution or treatment facility pursuant to section
23 16-11-308 (5).

24 (3) Except for contracts executed in the fiscal year
25 beginning July 1, 1988, the board of county commissioners in
26 each county desiring to contract with the department of
27 corrections shall notify said department, on or before

1 September 1 of each year, of the jail space available for
2 contract and the daily charge for such space to take effect on
3 July 1 of the following year.

4 (4) Commencing with the fiscal year beginning July 1,
5 1988, the department of corrections shall execute contracts
6 with counties indicating a willingness to contract for
7 available jail space as soon as is practicable following the
8 effective date of this section.

9 (5) Beginning with budget requests required to be
10 submitted by November 1, 1988, the executive director of the
11 department of corrections shall include the costs of
12 contracting for jail space in the department's annual budget
13 request to be submitted to the joint budget committee.

14 SECTION 21. 17-1-105 (1), Colorado Revised Statutes,
15 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
16 to read:

17 17-1-105. Powers of executive director. (1) (e) The
18 authority to enter into contracts with any county for the
19 placement of inmates pursuant to section 16-11-308.5, C.R.S.

20 SECTION 22. 17-26-103, Colorado Revised Statutes, 1986
21 Repl. Vol., is amended to read:

22 17-26-103. Duties of keeper. The keepers of the several
23 county jails in this state shall receive and safely keep every
24 person duly committed OR PLACED PURSUANT TO SECTION
25 16-11-308.5, C.R.S., to such jail for safekeeping,
26 examination, or trial or duly sentenced to imprisonment in
27 such jail upon conviction for any contempt or misconduct or

1 for any criminal offense, and they shall not without lawful
2 authority let out of such jail, on bail or otherwise, any such
3 person.

4 SECTION 23. 30-10-511, Colorado Revised Statutes, 1986
5 Repl. Vol., is amended to read:

6 30-10-511. Sheriff custodian of jail. EXCEPT AS
7 PROVIDED IN SECTION 16-11-308.5, C.R.S., the sheriff shall
8 have charge and custody of the jails of his county, and of the
9 prisoners in the same, and shall supervise them himself or
10 through his deputy or jailer, for whose acts he and his
11 sureties shall be liable.

12 SECTION 24. 30-11-101 (1), Colorado Revised Statutes,
13 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH
14 to read:

15 30-11-101. Powers of counties. (1) (h) To enter into
16 contracts with the executive director of the department of
17 corrections pursuant to section 16-11-308.5, C.R.S., for the
18 placement of persons under the custody of the executive
19 director in county jails.

20 SECTION 25. Article 1 of title 17, Colorado Revised
21 Statutes, 1986 Repl. Vol., as amended, is amended BY THE
22 ADDITION OF A NEW SECTION to read:

23 17-1-104.5. Incarceration of inmates from other states -
24 private contract prison facilities. No inmate from a state
25 other than Colorado may be received into the state of Colorado
26 and be housed in a private contract prison facility without
27 the express approval of the executive director.

1 SECTION 26. Part 1 of article 1 of title 18, Colorado
2 Revised Statutes, 1986 Repl. Vol., as amended, is amended BY
3 THE ADDITION OF A NEW SECTION to read:

4 18-1-104.5. Criminal justice commission. (1) (a) There
5 is hereby created in the department of corrections the
6 criminal justice commission, referred to in this section as
7 the "commission", which shall consist of the following fifteen
8 members: The executive director of the department of public
9 safety; the executive director of the department of
10 corrections; the chairman of the state board of parole; one
11 member appointed by the attorney general; one member appointed
12 by the chief justice of the supreme court; two members
13 appointed by the speaker of the house of representatives; two
14 members appointed by the president of the senate; and six
15 members appointed by the governor. Of the six members
16 appointed by the governor, one member shall be appointed from
17 each of the following groups: District attorneys, local law
18 enforcement, community corrections, public defenders, victims'
19 rights organizations, and academia.

20 (b) Appointed members of the commission shall serve
21 two-year terms. The other members shall serve for the terms
22 for which they hold their respective offices.

23 (c) Members of the commission shall be entitled to
24 reimbursement from the department of corrections for
25 reasonable expenses incurred in connection with the
26 performance of their official duties on the commission.

27 (2) The commission shall carry out the following duties:

1 (a) Review on an ongoing and comprehensive basis all
2 matters relating to corrections, including sentencing, parole,
3 the use of correctional facilities, alternatives to
4 incarceration, and the cost-effective use of state and local
5 correctional resources;

6 (b) Based on the review required in paragraph (a) of
7 this subsection (2), recommend retaining or altering existing
8 sentence ranges for all felony offenses and recommend a system
9 for determining which range of punishment applies to each
10 offender;

11 (c) Recommend standards to govern whether sentences are
12 to be served consecutively or concurrently;

13 (d) Recommend necessary changes in parole and community
14 corrections laws;

15 (e) Recommend emergency measures to address correctional
16 problems;

17 (f) Recommend necessary changes relating to state
18 correctional laws and facilities; and

19 (g) Study the capacity of the state's correctional
20 facilities and programs which are or will be available. While
21 the commission should not consider such capacity in arriving
22 at its recommendations, the commission shall project whether
23 the implementation of its recommendations would exceed the
24 capacity of such facilities and programs. If the commission
25 finds that such capacity probably would be exceeded, then the
26 commission shall recommend an additional list of standard
27 sentences which shall be consistent with such capacity.

1 (3) Commencing January 1, 1989, and every two years
2 thereafter, the commission shall make its recommendations as
3 specified in this section to the governor and the general
4 assembly.

5 (4) At its regular session convening in 1989 and every
6 two years thereafter, the general assembly shall review the
7 standards recommended by the commission pursuant to subsection
8 (3) of this section and determine whether to adopt any of the
9 commission's recommendations. Unless otherwise altered, the
10 presumptive ranges established in section 18-1-105 shall
11 remain in full force and effect.

12 SECTION 27. Repeal. 16-11-310, Colorado Revised
13 Statutes, 1986 Repl. Vol., is repealed.

14 SECTION 28. Appropriation. (1) In addition to any
15 other appropriation, there is hereby appropriated, out of any
16 moneys in the general fund not otherwise appropriated, to the
17 department of corrections, for the fiscal year beginning July
18 1, 1988, the sum of _____ dollars (\$), or so much
19 thereof as may be necessary, for the implementation of this
20 act.

21 (2) In addition to any other appropriation, there is
22 hereby appropriated, out of any moneys in the general fund not
23 otherwise appropriated, to the department of public safety for
24 allocation to the division of criminal justice, for the fiscal
25 year beginning July 1, 1988, the sum of _____ dollars
26 (\$), or so much thereof as may be necessary, for the
27 implementation of this act.

1 (3) In addition to any other appropriation, there is
2 hereby appropriated, out of any moneys in the general fund not
3 otherwise appropriated, to the judicial department, for the
4 fiscal year beginning July 1, 1988, the sum of _____
5 dollars (\$), or so much thereof as may be necessary, for
6 the implementation of this act.

7 SECTION 29. Effective date - applicability. Section 4
8 of this act shall take effect upon passage and shall apply to
9 persons sentenced for felonies committed on or after July 1,
10 1985; sections 17, 20, 27, 29, and 30 of this act shall take
11 effect upon passage; sections 5 through 16, 18, 19, 21 through
12 26, and 28 of this act shall take effect July 1, 1988; and
13 sections 1 through 3 of this act shall take effect July 1,
14 1988, and shall apply to offenses committed on or after said
15 date.

16 SECTION 30. Safety clause. The general assembly hereby
17 finds, determines, and declares that this act is necessary
18 for the immediate preservation of the public peace, health,
19 and safety.

BILL 2

A BILL FOR AN ACT

CONCERNING PROCEDURES RELATING TO THE DEATH PENALTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Clarifies the balancing tests used by a sentencing jury to determine whether a defendant should be sentenced to death or life imprisonment.

Adds a defendant's prior conviction of a class 3 violent felony to the list of aggravating factors to be considered for imposition of the death penalty.

Requires the supreme court to review and render a final opinion on capital cases within a specified period from the time the sentencing court certifies the entire record. Provides for a further extension of said period for good cause shown.

Changes the method of infliction of the death penalty from lethal gas to lethal injection.

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

3 SECTION 1. The introductory portion to 16-11-103 (2) (a)
4 and 16-11-103 (2) (a) (I), (2) (a) (II), (6) (b), and (7) (a),
5 Colorado Revised Statutes, 1986 Repl. Vol., are amended to
6 read:

7 16-11-103. Imposition of sentence in class 1 felonies -

1 appellate review. (2) (a) After hearing all the evidence and
2 arguments of the prosecuting attorney and the defendant, the
3 jury shall deliberate and ~~render--a--verdict--based---upon~~
4 DETERMINE the following: ~~considerations~~

5 (I) Whether at least one OF THE aggravating ~~factor--has~~
6 ~~been-proved-as~~ FACTORS enumerated in subsection (6) of this
7 section HAS BEEN PROVED; AND

8 (II) Whether sufficient mitigating factors exist which
9 outweigh any aggravating factor or factors found to exist. ~~and~~

10 (6) (b) The defendant was previously convicted in this
11 state of a class 1, ~~or~~ 2, OR 3 felony involving violence as
12 specified in section 16-11-309, or was previously convicted by
13 another state or the United States of an offense which would
14 constitute a class 1, ~~or~~ 2, OR 3 felony involving violence as
15 defined by Colorado law in section 16-11-309; or

16 (7) (a) Whenever a sentence of death is imposed upon a
17 person pursuant to the provisions of this section, the supreme
18 court shall review the propriety of that sentence, having
19 regard to the nature of the offense, the character and record
20 of the offender, the public interest, and the manner in which
21 the sentence was imposed, including the sufficiency and
22 accuracy of the information on which it was based. THE
23 SUPREME COURT SHALL REVIEW SUCH SENTENCE AND RENDER A FINAL
24 OPINION WITHIN SIXTY DAYS AFTER CERTIFICATION BY THE
25 SENTENCING COURT OF THE ENTIRE RECORD, UNLESS THE TIME IS
26 EXTENDED FOR AN ADDITIONAL THIRTY DAYS BY THE SUPREME COURT
27 FOR GOOD CAUSE SHOWN. The procedures to be employed in the

1 review shall be as provided by supreme court rule.

2 SECTION 2. 16-11-103 (2) (b), Colorado Revised Statutes,
3 1986 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS,
4 to read:

5 16-11-103. Imposition of sentence in class 1 felonies -
6 appellate review. (2) (b) (I) When the jury finds that no
7 aggravating factors exist, it shall render a verdict of life
8 imprisonment and the court shall sentence the defendant to
9 life imprisonment.

10 (II) When the jury finds that mitigating factors exist
11 which outweigh any aggravating factor or factors, it shall
12 render a verdict of life imprisonment and the court shall
13 sentence the defendant to life imprisonment.

14 (III) When the jury finds and specifies in writing that
15 mitigating factors do not outweigh any aggravating factor or
16 factors, it shall determine, based on all the evidence,
17 whether the defendant should be sentenced to death or life
18 imprisonment.

19 SECTION 3. 16-11-401, Colorado Revised Statutes, 1986
20 Repl. Vol., is amended to read:

21 16-11-401. Death penalty inflicted by lethal injection.
22 The manner of inflicting the punishment of death shall be by
23 the administration of A lethal gas INJECTION within the time
24 prescribed in this part 4, unless for good cause the court or
25 governor may prolong the time. FOR THE PURPOSES OF THIS PART
26 4, "LETHAL INJECTION" MEANS A CONTINUOUS INTRAVENOUS INJECTION
27 OF A LETHAL QUANTITY OF SODIUM THIOPENTAL OR OTHER EQUALLY OR

1 MORE EFFECTIVE SUBSTANCE SUFFICIENT TO CAUSE DEATH.

2 SECTION 4. 16-11-402, Colorado Revised Statutes, 1986
3 Repl. Vol., is amended to read:

4 16-11-402. Implements - sentence executed by executive
5 director. The executive director of the department of
6 corrections, at the expense of the state of Colorado, shall
7 provide a suitable and efficient room or place, enclosed from
8 public view, within the walls of the correctional facilities
9 at Canon City and therein ~~construct~~ and at all times have in
10 preparation all necessary appliances IMPLEMENTS requisite for
11 carrying into execution the death penalty by means of the
12 administration of A lethal gas INJECTION. ~~The punishment of~~
13 ~~death in each case of death sentence pronounced in this state~~
14 ~~shall be inflicted by the executive director or his designee~~
15 ~~in the room or place and with the appliances provided for~~
16 ~~inflicting the punishment of death by the administration of~~
17 ~~lethal gas.~~ THE EXECUTION SHALL BE PERFORMED IN THE ROOM OR
18 PLACE BY A PERSON SELECTED BY THE EXECUTIVE DIRECTOR AND
19 TRAINED TO ADMINISTER INTRAVENOUS INJECTIONS. DEATH SHALL BE
20 PRONOUNCED BY A LICENSED PHYSICIAN OR A CORONER ACCORDING TO
21 ACCEPTED MEDICAL STANDARDS.

22 SECTION 5. Repeal. 16-11-103 (2) (a) (III), Colorado
23 Revised Statutes, 1986 Repl. Vol., is repealed.

24 SECTION 6. Effective date - applicability. This act
25 shall take effect July 1, 1988, and shall apply to offenses
26 subject to the death penalty committed on or after said date.

27 SECTION 7. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary
2 for the immediate preservation of the public peace, health,
3 and safety.

BILL 3

A BILL FOR AN ACT

1 CONCERNING THE GRANT OF AUTHORITY TO CONTRACT FOR SERVICES
2 RELATING TO VICTIMS AND THEIR FAMILIES TO THE VICTIMS AND
3 WITNESSES ASSISTANCE AND LAW ENFORCEMENT BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Authorizes the victims and witnesses assistance and law enforcement board to contract for services concerning victims and their families.

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

5 SECTION 1. 24-4.2-105 (4), Colorado Revised Statutes,
6 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A
7 NEW PARAGRAPH to read:

8 24-4.2-105. Allocation of moneys from fund - application
9 for grants - disbursements. (4) (c.5) Assistance programs
10 for victims and their families;

11 SECTION 2. Effective date. This act shall take effect
12 July 1, 1988.

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

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE INCLUSION OF CONVICTS IN THE STATUTE RELATING
2 TO THE PROHIBITION OF PROFITING FROM ONE'S CRIME.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Adds convicts to the statute relating to the prohibition against profiting from one's crime by way of selling rights to a movie or book or any other representation of the crime.

3 Be it enacted by the General Assembly of the State of Colorado:
4 SECTION 1. 24-4.1-201(1), Colorado Revised Statutes,
5 1982 Repl. Vol., as amended, is amended to read:
6 24-4.1-201. Distribution of money received as a result
7 of commission of a crime - escrow account - civil suit by
8 victim. (1) Every person contracting with a person, or the
9 representative or assignee of a person, accused OR CONVICTED
10 of a crime in this state, with respect to the reenactment of
11 that crime or with respect to the expressions of the accused's
12 OR CONVICT'S thoughts, feelings, or emotions regarding the

1 crime, by way of a movie, book, magazine article, radio or
2 television presentation, or live entertainment of any kind
3 shall pay to the victims assistance and law enforcement
4 advisory board any money which would otherwise, by terms of
5 the contract, be owing to the accused OR CONVICT or his
6 representatives. For the purposes of this part 2, "board"
7 means the victims assistance and law enforcement advisory
8 board established pursuant to section 24-33.5-508. The board
9 shall deposit the money in an escrow account for the benefit
10 of any victim of a crime committed by the person accused OR
11 CONVICTED and payable to a victim if the accused OR CONVICTED
12 PERSON is convicted of the crime COMMITTED AGAINST SAID VICTIM
13 and the victim, within five years of the date the escrow
14 account is established, brings a civil action in a court of
15 competent jurisdiction and recovers a money judgment against
16 the accused OR CONVICT or his representatives.

17 SECTION 2. Effective date - applicability. This act
18 shall take effect July 1, 1988, and shall apply to offenses
19 committed on or after said date.

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

BILL 5

A BILL FOR AN ACT

1 CONCERNING THE REPEAL OF THE SUNSET PROVISION ON THE
2 ASSISTANCE TO VICTIMS OF AND WITNESSES TO CRIMES AND AID
3 TO LAW ENFORCEMENT ACT, AND, IN CONNECTION THEREWITH,
4 CONTINUING THE VICTIM ASSISTANCE AND LAW ENFORCEMENT
5 ADVISORY BOARD.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Repeals the sunset provision concerning the assistance to victims of and witnesses to crimes and aid to law enforcement act, and allows the victim assistance and law enforcement advisory board, which was subject to termination July 1, 1988, to continue.

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

7 SECTION 1. 2-3-1203 (3)(c), Colorado Revised Statutes,
8 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A
9 NEW SUBPARAGRAPH to read:

10 2-3-1203. Sunset of advisory committees.

11 (3) (c) (X) The victims assistance and law enforcement

1 advisory board, appointed pursuant to section 24-33.5-508,
2 C.R.S.;

3 SECTION 2. 24-33.5-508 (4)(a), Colorado Revised
4 Statutes, 1982 Repl. Vol., as amended, is amended to read:

5 24-33.5-508. Advisory board - sunset review.

6 (4) (a) This section is repealed, effective July 1, 1988
7 1990.

8 SECTION 3. Repeal. 2-3-1203 (3)(a)(IV), Colorado
9 Revised Statutes, 1980 Repl. Vol., as amended, and 24-4.2-111
10 and 24-33.5-509, Colorado Revised Statutes, 1982 Repl. Vol.,
11 as amended, are repealed.

12 SECTION 4. Effective date. This act shall take effect
13 July 1, 1988.

14 SECTION 5. Safety clause. The general assembly hereby
15 finds, determines, and declares that this act is necessary
16 for the immediate preservation of the public peace, health,
17 and safety.

BILL 6

A BILL FOR AN ACT

1 CONCERNING VOLUNTARY CONTRIBUTIONS ON STATE INCOME TAX RETURNS
2 TO PROVIDE FUNDING FOR THE CONSTRUCTION OR OPERATION OF
3 PRISONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Establishes a voluntary contribution on state income tax returns to pay for the construction or operation of prisons. Requires that amounts so designated and interest earned thereon be credited to the Colorado prison construction fund and be appropriated to the department of corrections for the construction or operation of prisons. Repeals the act on January 1, 1992.

4 Be it enacted by the General Assembly of the State of Colorado:
5 SECTION 1. Article 22 of title 39, Colorado Revised
6 Statutes, 1982 Repl. Vol., as amended, is amended BY THE
7 ADDITION OF A NEW PART to read:
8 PART 11
9 PRISON CONSTRUCTION FUND
10 VOLUNTARY CONTRIBUTION

1 39-22-1101. Voluntary contribution designation -
2 procedure. For income tax years commencing on or after
3 January 1, 1988, but prior to January 1, 1991, each Colorado
4 state individual income tax return form shall contain a line
5 whereby such individual taxpayer may designate the amount of
6 the contribution, if any, he wishes to make to the Colorado
7 prison construction fund established in section 39-22-1102.
8 These contributions shall not be considered public funds for
9 the purposes of article V of the constitution of Colorado.

10 39-22-1102. Fund established - contributions -
11 appropriation. (1) The department of revenue shall determine
12 annually the total amount designated pursuant to section
13 39-22-1101 and shall report such amount to the state treasurer
14 and to the general assembly. The state treasurer shall credit
15 such amount to the Colorado prison construction fund, a cash
16 fund which is hereby established in the state treasury. All
17 interest derived from the deposit and investment of moneys in
18 the fund shall be credited to the fund. At the end of any
19 fiscal year, all unexpended and unencumbered moneys in the
20 fund shall remain therein and shall not revert or be
21 transferred to the general fund or any other fund.

22 (2) The general assembly shall appropriate from the
23 Colorado prison construction fund to the department of
24 corrections such amount as is necessary for the construction
25 or operation of prisons.

26 39-22-1103. Repeal of part. This part 11 is repealed,
27 effective January 1, 1992, unless the Colorado prison

1 construction fund established by said part 11 is continued or
2 reestablished by the general assembly acting by bill during
3 the first regular session of the fifty-eighth general
4 assembly. Prior to or during such session, a committee of
5 reference in each house of the general assembly shall hold a
6 hearing regarding the possible termination, continuation, or
7 reestablishment of the Colorado prison construction fund as
8 provided for in this part 11.

9 SECTION 2. Safety clause. The general assembly hereby
10 finds, determines, and declares that this act is necessary
11 for the immediate preservation of the public peace, health,
12 and safety.

BILL 7

A BILL FOR AN ACT

1 CONCERNING ENFORCEMENT OF ORDERS OF RESTITUTION ENTERED IN
2 CRIMINAL CASES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that an order of restitution is a final judgment and has the same force and effect. Specifies that, as a final judgment, said order can be enforced by the state, the victim, or the victim's immediate family in the same manner as a judgment in a civil action.

Defines the phrase "victim's immediate family".

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

4 SECTION 1. Part 1 of article 11 of title 16, Colorado
5 Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION
6 OF A NEW SECTION to read:

7 16-11-101.5. Collection of restitution. (1) Any order
8 of restitution to be paid by a person sentenced for a crime
9 shall be a final judgment and shall have all the force and
10 effect of a final judgment and, as such, may be enforced by

1 the state or a victim named in the order to receive the
2 restitution or the victim's immediate family in the same
3 manner as a judgment in a civil action.

4 (2) Any amount paid to a victim under an order of
5 restitution shall be set off against any amount later
6 recovered as compensatory damages by such victim in any
7 federal or state civil proceeding.

8 (3) For purposes of this section, "victim's immediate
9 family" means the victim's spouse, parent, sibling, or adult
10 or minor child.

11 SECTION 2. Effective date - applicability. This act
12 shall take effect July 1, 1988, and shall apply to offenses
13 committed on or after said date.

14 SECTION 3. Safety clause. The general assembly hereby
15 finds, determines, and declares that this act is necessary
16 for the immediate preservation of the public peace, health,
17 and safety.

BILL 8

A BILL FOR AN ACT

1 CONCERNING THE EXPANSION OF FACILITIES AT SHADOW MOUNTAIN
2 CORRECTIONAL FACILITY, AND MAKING AN APPROPRIATION
3 THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for the expansion of core services facilities at Shadow Mountain correctional facility, including facilities for dining and food service, vocational education, activities and indoor recreation, medical and dental services, education programs and library services in a core building, upgrading of the perimeter security system, expansion of areas for employment opportunities, and the remodeling and remodeling of existing housing units for the purpose of double bunking ninety-six inmates. Makes an appropriation therefor.

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

5 SECTION 1. Expansion authorization. The department of
6 corrections is hereby authorized and directed: (1) To provide
7 for the expansion of core services facilities at Shadow
8 Mountain correctional facility, to include facilities for
9 dining and food service, vocational education, activities and

1 indoor recreation, medical and dental services, education
2 programs and library services in a core service building;
3 (2) to upgrade the perimeter security system; (3) to expand
4 areas for employment opportunities; and (4) to remodel and
5 modify existing housing units for the purpose of double
6 bunking ninety-six inmates.

7 SECTION 2. Appropriation. In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys
9 in the general fund not otherwise appropriated, to the
10 department of corrections, the sum of seven million eight
11 hundred eighty-two thousand five hundred twenty-eight dollars
12 (\$7,882,528), or so much thereof as may be necessary, for the
13 remodeling and expansion authorized by section 1 of this act
14 and for program implementation. The moneys appropriated shall
15 become available upon the passage of this act and shall remain
16 available until completion of the projects authorized by this
17 act or for a period of three years, whichever comes first, at
18 which time unexpended and unencumbered balances shall revert
19 to the general fund.

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

BILL 9

A BILL FOR AN ACT

1 CONCERNING A REQUIREMENT THAT PERSONS CHARGED WITH ANY
2 UNLAWFUL SEXUAL BEHAVIOR OFFENSE BE TESTED FOR THE HUMAN
3 IMMUNODEFICIENCY VIRUS WHICH CAUSES ACQUIRED IMMUNE
4 DEFICIENCY SYNDROME, AND, IN CONNECTION THEREWITH,
5 PROVIDING FOR DISCLOSURE OF THE RESULTS OF SAID TEST TO
6 ANY VICTIM OF THE OFFENSE.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Requires the court to order an AIDS virus blood test for any person charged with a sexual criminal offense. Requires the results of the test to be disclosed to any victim of the sexual offense who requests such disclosure. Provides that any victim told of the results is subject to the confidentiality provisions of the statute concerning AIDS.

7 Be it enacted by the General Assembly of the State of Colorado:
8 SECTION 1. Part 4 of article 3 of title 18, Colorado
9 Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION
10 OF A NEW SECTION to read:

1 18-3-415. Acquired immune deficiency syndrome testing
2 for persons charged with any sexual offense. Any person
3 charged with any sexual offense as defined in this article
4 shall be ordered by the court to submit to a blood test for
5 the human immunodeficiency virus (HIV) which causes acquired
6 immune deficiency syndrome. The results of such test shall be
7 reported to the court, which shall then disclose the results
8 to any victim of the sexual offense who requests such
9 disclosure. Any victim told of the results of an HIV test
10 shall be subject to the confidentiality provisions of part 14
11 of article 4 of title 25, C.R.S.

12 SECTION 2. 25-4-1404 (1), Colorado Revised Statutes,
13 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A
14 NEW PARAGRAPH to read:

15 25-4-1404. Use of reports. (1) (d) Release may be made
16 to a court and to a victim of a sexual offense pursuant to
17 section 18-3-415, C.R.S.

18 SECTION 3. 25-4-1405 (8) (a), Colorado Revised Statutes,
19 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A
20 NEW SUBPARAGRAPH to read:

21 25-4-1405. Disease control by state and local health
22 departments. (8) (a) (V) When the testing is done on a
23 defendant charged with a sexual offense pursuant to section
24 18-3-415, C.R.S.

25 SECTION 4. Effective date. This act shall take effect
26 July 1, 1988.

27 SECTION 5. Safety clause. The general assembly hereby

1 finds, determines, and declares that this act is necessary
2 for the immediate preservation of the public peace, health,
3 and safety.

BILL 10

A BILL FOR AN ACT

1 CONCERNING THE EXPANSION OF THE OFFENSE OF FIRST DEGREE MURDER
2 TO INCLUDE DEATHS RESULTING FROM THE COMMISSION OF DRUG
3 OFFENSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Expands the offense of first degree murder to include deaths resulting from the commission of certain drug offenses.

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

5 SECTION 1. 18-3-102 (1), Colorado Revised Statutes, 1986
6 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to
7 read:

8 18-3-102. Murder in the first degree. (1) (b.5) Acting
9 either alone or with one or more persons, he commits unlawful
10 distribution, manufacturing, or sale of a controlled
11 substance, as prohibited by section 18-18-105, and the
12 commission of such offense results in the death of a person;

1 or

2 SECTION 2. Effective date - applicability. This act
3 shall take effect July 1, 1988, and shall apply to offenses
4 committed on or after said date.

5 SECTION 3. Safety clause. The general assembly hereby
6 finds, determines, and declares that this act is necessary
7 for the immediate preservation of the public peace, health,
8 and safety.

BILL 11

A BILL FOR AN ACT

1 CONCERNING FACILITIES FOR THE CONFINEMENT OF PERSONS CONVICTED
2 OF A CRIME, AND, IN CONNECTION THEREWITH, MAKING AN
3 APPROPRIATION FOR THE DESIGN, COMPLETION, AND
4 CONSTRUCTION OF THE DENVER METROPOLITAN AREA DIAGNOSTIC
5 CENTER, THE DESIGN AND CONSTRUCTION OF A MEDIUM SECURITY
6 PRISON, AND THE DESIGN AND CONSTRUCTION FOR THE EXPANSION
7 AND REMODELING OF THE SHADOW MOUNTAIN CORRECTIONAL
8 FACILITY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Funds the design, completion, and construction of the Denver area diagnostic center, the design and construction of a medium security prison, and the design and construction for the expansion and remodeling of the Shadow Mountain correctional facility.

9 Be it enacted by the General Assembly of the State of Colorado:
10 SECTION 1. Article 1 of title 17, Colorado Revised
11 Statutes, 1986 Repl. Vol., as amended, is amended BY THE

1 ADDITION OF A NEW SECTION to read:

2 17-1-114. Correctional facility construction fund -
3 creation. There is hereby created in the state treasury a
4 fund to be known as the correctional facility construction
5 fund, referred to in this section as the "fund", which shall
6 consist of the revenues transferred thereto as provided by law
7 and all moneys which may be appropriated thereto by the
8 general assembly or which may be otherwise made available to
9 it by the general assembly. All interest earned from the
10 investment of moneys in the fund shall be credited to the fund
11 and become a part thereof. The moneys in the fund shall not
12 revert to the general fund at the end of any fiscal year.

13 SECTION 2. Authorization. The department of corrections
14 is hereby authorized and directed to provide for:

15 (1) The continuation and completion of a design for a
16 three hundred thirty-six-bed diagnostic center in Denver as
17 well as site development to comply with applicable flood and
18 environmental regulations;

19 (2) (a) The design and construction of one medium
20 security prison on a site to be selected by the department of
21 corrections in consultation with the general assembly. The
22 design and plan for such prison may be used for a second
23 medium security facility to be built at some future date.

24 (b) The facility shall contain space for approximately
25 six hundred twenty-five prisoners, including those prisoners
26 double-bunked pursuant to paragraph (c) of this subsection
27 (2).

1 (c) The facility shall be designed and constructed so
2 that at least twenty-five percent of the cells in such
3 facility meet appropriate requirements allowing for the
4 double-bunking of prisoners.

5 (d) Individual cells in the facility shall be
6 independently lockable and shall be wet cells, containing
7 water and toilet facilities.

8 (e) The facility shall be similar in design to the
9 Arkansas Valley correctional facility in order to minimize
10 design and construction costs and to maximize efficiency in
11 the design and construction of such facility. Existing
12 feasibility plans and studies shall be utilized as necessary
13 to minimize delay and expense in the design and construction
14 of the facility.

15 (f) Construction of the facility shall commence no later
16 than three months after the effective date of this act.

17 (3) The design and construction for the expansion of the
18 Shadow Mountain correctional facility providing for a support
19 core facility, upgrading the security perimeter, addressing
20 the security needs of existing cell houses, and providing for
21 double-bunking of ninety-six beds.

22 SECTION 3. Appropriation. In addition to any other
23 appropriation, there is hereby appropriated, to the department
24 of corrections, out of any moneys in the correctional facility
25 construction fund not otherwise appropriated, the sum of
26 ninety million three hundred ninety-nine thousand six hundred
27 fifty dollars (\$90,399,650), or so much thereof as may be

1 necessary, for the implementation of this act. The moneys
2 appropriated by this section shall become available upon
3 passage of this act and shall remain available until _____.

4 SECTION 4. Safety clause. The general assembly hereby
5 finds, determines, and declares that this act is necessary
6 for the immediate preservation of the public peace, health,
7 and safety.

JOINT RESOLUTION NO. 1

1 WHEREAS, This state's prisons are of public concern and
2 are of the utmost importance; and

3 WHEREAS, Prison overcrowdedness is an increasing problem;
4 and

5 WHEREAS, There is a need for the state of Colorado to
6 address the issue of prison crowdedness and to develop methods
7 to deal with such issue; and

8 WHEREAS, Lease - purchase agreements with private
9 entities for the construction and operation of prisons is a
10 viable option in addressing the prison crowdedness issue; now,
11 therefore,

12 Be It Resolved by the _____ of the Fifty-sixth
13 General Assembly of the State of Colorado, the _____
14 concurring herein:

15 (1) That the Legislative Council is directed to appoint
16 a committee to conduct a study which should address, but need
17 not be limited to, the following aspects of lease - purchase
18 agreements entered into by the department of corrections with
19 private entities:

20 (a) The current number of prisoners being housed in
21 department of correction facilities and the amount of increase
22 which is expected in the prison population;

23 (b) The current prison space available and the amount of
24 space needed to meet the rising prison population;

25 (c) The requirements a private entity must meet in order
26 to be considered for a lease-purchase agreement;

27 (d) The standards to be applied to the level and quality
28 of services provided by the private entity and the costs

1 involved;

2 (e) The consideration of standards or limitations on
3 liability of the private entity;

4 (f) The requirement of insurance coverage by the private
5 entity of both the state and said entity from all state and
6 federal claims which may arise from the construction and
7 operation of a prison;

8 (g) The standards and requirements for employees of the
9 private entity, including the level of training required for
10 such employees;

11 (h) The extent of control and supervisory powers over
12 the prison by the department of corrections, including
13 admissions, occupancy, parole, and disciplinary actions;

14 (i) The authority of the department of corrections to
15 establish procedures and requirements over such matters as
16 record-keeping and grievance procedures, periodic inspections,
17 sanctions, determination of what type of offenders are to be
18 incarcerated in the prison and procedures to be followed in
19 the event that the private entity defaults or a riot or other
20 emergency occurs.

21 (2) That the Legislative Council shall submit the
22 findings and recommendations of such committee to the First
23 Regular Session of the Fifty-seventh General Assembly.

24 (3) That all expenditures incurred in the conduct of the
25 study directed by this resolution shall be approved by the
26 Chairman of the Legislative Council and paid by vouchers and
27 warrants drawn as provided by law from funds allocated to the
28 Legislative Council from appropriations made by the General
29 Assembly.