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OCT 18 2017

3:58 P.M.

Initiative 2017-2018 #61

Be it Enacted by the People of the State of Colorado:

Colorado Secretary of State

C.R.S. 16-1-110 Criminal justice.

(1) The goals of this “Justice and Fairness Act” are to protect society, help victims, clear the innocent, reduce crime, change lives, save taxpayer costs, and enforce civil liberties. It shall apply in all state and local felony and misdemeanor cases, including home rule governments as a matter of statewide concern for due process of law. It shall be severable, self-executing, effective on passage, and retroactive to end injustice, and shall supersede conflicting laws. Dollar amounts shall adjust for inflation every four years. No person may waive the provisions of this law. Violations of section 110 may void later actions.

(2) The first sentencing duty is full restitution, monetary and otherwise, to victims by defendants. Third-party payments shall not reduce restitution. Victims shall receive treatment without charge to them. Inmates can work 40 hours weekly at \$5 hourly. After fifty cents hourly to their account, wages shall pay only restitution; then only child support orders; then only legal debts; then only fines, 25% to a fund for victim relief, and inmate accounts. On release, inmates shall receive \$2 per day incarcerated to aid their return to society. Defendants shall not pay booking, discovery, trial, custody, treatment, or any other government costs. They shall not be held past their release date, nor deprived of anything due them upon release or dismissal.

(3) Defendants are factually innocent who did not commit the crime or whose acts were not criminal. Factual innocence of living defendants may be found at any time by a governor, state court, or prosecutor. Defendant’s burden of proof shall be substantial evidence. The prosecution shall not use illegally-obtained evidence. All photos, DNA samples, fingerprints, and similar data of exonerated or dismissed defendants shall be destroyed. All such defendants, whether or not ever convicted, may lawfully and truthfully omit such case in any inquiry. No conviction shall affect credibility. Statutory damages shall not limit or offset other compensation or exemplary damages to such defendants.

(4) Without condition or state tax liability, the state shall pay all defendants fully exonerated or fully dismissed after 2017: (a) \$2,000 per felony filed and \$500 per misdemeanor filed;(b) \$200 per day of incarceration, and \$50 per day of probation and/or parole when not incarcerated;(c) all fines, restitution, and other sentencing costs paid to government and others;

(d) Costs and legal fees paid in the first case, plus later exoneration or dismissal costs and legal fees at \$100 per hour; and(e) economic and health loss, bail fees, and all other damages directly related to such cases. Restitution shall also be tax-free.

(5) Bail exists solely to compel defendants, presumed innocent, to appear in court. Citizens charged with non-violent crimes who reside in this state and have valid identification and no past failure to appear in court may sign a surrender letter after booking. On appeal, such citizens may post bail equal to twice the monetary amount of loss. In rare cases, such citizens may instead be held six hours for booking and a court hearing on bail or bond in person or by two-way audio and video.

(6) Grand juries shall be abolished. Defendants denied a local jury trial, subpoena power, or use of evidence of innocence shall have all past, present, and future cases dismissed. Defendant trial testimony, and two jury statements of up to one hour each, shall not be blocked or subject to objection. Jurors shall be instructed to decide if a given law properly applies to the facts, and that prosecution testimony by an incarcerated or rewarded informant deserves suspicion and doubt. All defendant statements in custodial questioning shall be audio-video recorded and clear. Charges shall detail what specified facts prove each crime; verdicts shall expressly affirm or reject those facts. In an affidavit, illegally-obtained evidence, any false claim of material

fact, or lack of specificity or probable cause shall void its search or administrative warrant or order to produce. Subpoenas for private records in criminal cases shall require probable cause, specificity, and court consent. Reasonable suspicion of a specific violation of law is required for each vehicle stop by law enforcement; no stop shall be general, arbitrary, or random. Only local prosecutors may file and try criminal charges.

(7) Judges shall be assigned by lot. Plea and sentence bargains shall end; no prosecutor, judge, or peace officer shall discuss sentences before convictions. Prosecutors shall file and continue charges only with a good faith belief in sufficient admissible proof of guilt on each charge beyond a reasonable doubt. For identity issues, prosecutors shall use fingerprint, DNA, retinal scan, blood, fiber, graphology, audio, video, and all other reliable scientific identity tests. Such identity evidence shall be kept for the life of convicted felons. Prosecutors shall also disclose at once and in writing all suspects and all evidence. All non-indigent defendants can hire the public defender to represent them at \$70 per hour regardless of conflicts of interest.

(8) No conviction by trial shall be punished more than by plea. Sentencing shall ignore arrests without convictions. Sentences shall not increase on re-sentencing. No fine shall bear interest. Custody shall have a fixed maximum term. Custody shall not exceed three years per non-violent crime, plus one year for every \$50,000 theft. A non-violent crime fine shall not exceed \$3,000 plus twice the monetary amount of loss. Adult citizens shall retain their civil liberties, can vote, and, in non-violent cases, can have firearms. Pleadings and appeals shall have no word, page, or content limit; government shall waive any pleading and appeal defects.

(9) Inmates with a history of mental illness, or sexual, alcohol, or drug abuse, shall attend treatment four days weekly. Those without such history shall not be tested or treated in custody. On a third conviction in four years of driving a vehicle while intoxicated, incarceration shall be at least one year. No good time, work release, home stay, halfway house, bracelet, status, parole, probation, or other excuse shall reduce that time, and driver licenses shall be revoked for one year after release. Poverty, begging, vagrancy, loitering, adult use of alcohol in public, public drunkenness, runaway juvenile, curfew, and mental illness are not crimes, but civil detentions may lawfully apply to the last four. It is not a crime to obey government requests.

(10) The prosecution must prove by clear and convincing evidence why release of non-violent crime defendants should be denied, and why their parole or probation should be revoked. They have a right to call witnesses at release hearings, held every six months, and revocations. Such audio-video hearings shall focus on physical dangers to society and risk of relapse. Inmates may have visitors 30 minutes daily. Probation and parole shall be part of custody but not limit association or travel except to victims. Defendants may email probation and parole officers. Non-violent crime defendants who paid all restitution and fines and commit no further crime shall have sentences end one year after release. State offices in each county with over 100,000 population shall offer no-cost aid, treatment, beds, bathrooms, food, and job and license training for the first 45 days after inmate release. No license shall be denied because of unpaid bills. No law shall bar or monitor hiring defendants.

(11) Next year, the general assembly shall list all state crimes and vote on reducing or repealing crimes and custody, penalties, and fines. All local governments shall do the same for their local crimes. Reductions and repeals shall apply to all past, present, and future cases of living defendants. Only the general assembly may enact future crimes and define "non-violent."

(12) The prosecution's sole goals are truth and justice. Prosecutors and judges shall never prevent evidence of innocence. Prosecutors and others may be sued at any time for actual and exemplary damages, and legal fees which are not reciprocal, for gross intentional misconduct, including actions tending to convict the innocent, treating defendants in an irrationally discriminatory or vicious manner, or clearly violating state or federal civil or constitutional rights. Governments shall obtain liability insurance to pay all such damages and costs by current or former government employees.