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HOUSE BILL 13-1323

BY REPRESENTATIVE(S) Levy and McNulty, Buckner, Coram, Fields, Fischer, Foote, Garcia, Kagan, Labuda, Lee, Pabon, Primavera, Salazar, Vigil, Ferrandino;
also SENATOR(S) Guzman and Scheffel, Giron, King, Newell, Ulibarri.

CONCERNING REQUIRING THE DEPARTMENT OF CORRECTIONS TO OBTAIN CLARIFICATION IF A COURT-ISSUED MITTIMUS OMITTS INSTRUCTION CONCERNING WHETHER A DEFENDANT'S SENTENCES ARE TO BE SERVED CONSECUTIVELY OR CONCURRENTLY.

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

SECTION 1. In Colorado Revised Statutes, **add** 17-22.5-307 as follows:

17-22.5-307. Consecutive or concurrent sentences - clarification of mittimus. (1) IF THE DEPARTMENT RECEIVES CUSTODY OF A DEFENDANT WHO IS SENTENCED TO SERVE TWO OR MORE TERMS OF INCARCERATION IN THE CUSTODY OF THE DEPARTMENT, AND ANY MITTIMUS CONCERNING THE DEFENDANT'S SENTENCE OR SENTENCES DOES NOT CLEARLY INDICATE WHETHER THE DEFENDANT'S SENTENCES ARE TO BE SERVED CONSECUTIVELY OR CONCURRENTLY, THEN THE DEPARTMENT SHALL SEEK CLARIFICATION IN WRITING FROM THE COURT REGARDING THE DEFENDANT'S SENTENCE OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SENTENCES. THE DEPARTMENT SHALL SEEK SUCH CLARIFICATION NOT MORE THAN TWO BUSINESS DAYS AFTER THE DEPARTMENT'S RECEIPT OF THE MITTIMUS.

(2) A COURT THAT RECEIVES A WRITTEN REQUEST FROM THE DEPARTMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL RESPOND TO THE DEPARTMENT AND CLARIFY THE MITTIMUS IN QUESTION IN ORDER TO ACCURATELY REFLECT THE SENTENCE PREVIOUSLY ENTERED IN OPEN COURT. THE COURT SHALL PROVIDE SUCH CLARIFICATION IN WRITING NOT MORE THAN TWO BUSINESS DAYS AFTER RECEIVING THE REQUEST. THE COURT SHALL PROVIDE A COPY OF THE COURT'S RESPONSE TO THE COUNSEL OF RECORD FOR THE PROSECUTION AND THE DEFENSE.

(3) UNTIL THE DEPARTMENT OBTAINS CLARIFICATION OF THE MITTIMUS FROM THE COURT, THE DEPARTMENT SHALL NOT MAKE ANY DETERMINATION OF THE DEFENDANT'S PAROLE ELIGIBILITY DATE OR MANDATORY RELEASE DATE.

SECTION 2. In Colorado Revised Statutes, **add** 18-1.3-409 as follows:

18-1.3-409. Concurrent or consecutive sentences - court to clarify sentencing in mittimus. BEFORE REMITTING ANY MITTIMUS TO THE DEPARTMENT OF CORRECTIONS SENTENCING A DEFENDANT TO THE CUSTODY OF THE DEPARTMENT, A COURT SHALL CONFIRM THAT THE MITTIMUS PROPERLY REFLECTS THE SENTENCING ORDER OF THE COURT AND INCLUDES ALL NECESSARY INFORMATION REGARDING THE SENTENCE AND ANY INFORMATION AS TO WHETHER A SENTENCE IS TO BE SERVED CONCURRENT WITH, OR CONSECUTIVE TO, THE SENTENCE FOR ANY OTHER COUNT OR ANY OTHER CASE.

SECTION 3. Safety clause. The general assembly hereby finds,

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

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

John P. Morse
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO