

# COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

## TITLE 16, ARTICLE 11.3, COLORADO REVISED STATUTES

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### ["ELEMENT 1"]

#### **16-11.3-101. Legislative declaration**

(1) The general assembly finds and declares that:

(a) Ensuring public safety and respecting the rights of victims are paramount concerns of the citizens of Colorado;

(b) Improving the effective administration of justice involves a comprehensive examination of, and recommendations regarding, the criminal and juvenile justice systems;

(c) Current commitments to the department of corrections require expending a significant percentage of the state budget for incarceration of offenders;

(d) The number of offenders projected to be sentenced in the future will require that an even greater percentage of the state budget be dedicated to incarceration;

(e) The rate of recidivism is high, resulting in the return of many offenders to the justice system with additional significant expense;

(f) It is in the interest of the people of the state of Colorado to maintain public safety through the most cost-effective use of limited criminal justice resources;

(g) Many factors may contribute to an offender's criminal behavior, including but not limited to substance abuse, mental illness, poverty, child abuse, domestic violence, and educational deficiencies. Often times, factors contributing to criminal conduct and re-victimization are not addressed adequately within the justice system.

(h) Appropriate intervention in a child's life through the juvenile justice system or prevention programs may limit or prevent future criminal conduct;

(i) It is in the best interest of the public to engage in a comprehensive, evidence-based analysis of the circumstances and characteristics of the offenders being sentenced to the department of corrections, the alternatives to incarceration, the effectiveness of prevention programs, and the effectiveness of the criminal code and sentencing laws in securing public safety.

(2) Therefore, the general assembly declares that a commission comprised of experts in criminal justice, corrections, mental health, drug abuse, victims' rights, higher education, juvenile justice, local government, and other pertinent disciplines shall be formed to engage in an evidence-based analysis of the criminal justice system in Colorado and annually report to the governor, the speaker of the house of representatives, the president of the senate, and the chief justice of the Colorado supreme court.

### ["ELEMENT 2"]

#### **16-11.3-102. Colorado commission on criminal and juvenile justice - creation - membership - operation**

(1) (a) There is hereby created in the department of public safety the Colorado commission on criminal and juvenile justice, referred to in this article as the "commission". The commission shall have the powers and duties specified in this article.

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(b) The commission shall exercise its powers and perform its duties and functions as if the same were transferred to the department of public safety by a type 2 transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S. [Note: See Types of Transfers in "Related Colorado Revised Statutes" below.]

(2) (a) The commission shall consist of twenty-nine voting members, as follows:

(I) The executive director of the department of public safety, or his or her designee;

(II) The executive director of the department of corrections, or his or her designee;

(III) The executive director of the department of human services, or his or her designee;

(IV) The executive director of the department of higher education, or his or her designee;

(V) The attorney general, or his or her designee;

(V.5) The executive director of the colorado district attorneys' council, or his designee, and one elected district attorney, to be designated by the colorado district attorneys' council;

(VI) The state public defender, or his or her designee;

(VII) The chairperson of the state board of parole, or his or her designee;

(VIII) The chairperson of the juvenile parole board, or his or her designee;

(IX) Two members appointed by the chief justice of the Colorado supreme court from the judicial branch, at least one of whom shall be a current or retired judge;

(X) Four members of the general assembly appointed as follows:

(A) One member appointed by the speaker of the house of representatives;

(B) One member appointed by the minority leader of the house of representatives;

(C) One member appointed by the president of the senate; and

(D) One member appointed by the minority leader of the senate; and

(XI) Thirteen members appointed by the governor as follows:

(A) A representative of a police department;

(B) A representative of a sheriff's department;

(C) An expert in juvenile justice issues;

(D) (repealed) [Note: See (2)(a)(V.5) above]

(E) A county commissioner;

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(F) A criminal defense attorney;

(G) A representative of a victims' rights organization;

(H) One member who shall be a representative of a community corrections provider, a community corrections board member, or a mental health or substance abuse treatment provider;

(I) One member who is a victim, as defined in section 24-4.1-302 (5), who has demonstrated knowledge of the criminal justice system and its impacts; [Note: See Victim Rights Definitions in "Related Colorado Revised Statutes" below.]

(J) A person who is a former offender who has demonstrated knowledge of the criminal justice system and its impacts;

(K) A representative of a nonprofit organization representing municipalities;

(L) A victim's advocate, as defined in section 13-90-107(1)(k)(ii); [Note: See Who May Not Testify in "Related Colorado Revised Statutes" below.] and

(M) Two members who shall be appointed at-large.

(b) The director of the division of criminal justice in the department of public safety shall serve as a nonvoting member of the commission.

(3) (a) The appointed members of the commission shall serve terms of three years; except that the members first appointed pursuant to sub-subparagraphs (D) to (I) of subparagraph (XI) of paragraph (a) of subsection (2) of this section shall each serve a two-year term. The members appointed after the initial two-year terms shall serve three-year terms.

(b) Each appointing authority shall appoint the initial appointed members of the commission within sixty days after May 23, 2007. The Governor shall appoint the commission members described in subsection (2)(a)(XI)(I), (2)(a)(XI)(J), (2)(a)(XI)(K), and (2)(a)(XI)(L) of this section on or before July 1, 2018. An appointed member shall not serve more than two consecutive full terms, in addition to any partial term. In the event of a vacancy in an appointed position by death, resignation, removal for misconduct, incompetence, neglect of duty, or otherwise, the appointing authority shall appoint a member to fill the position for the remainder of the unexpired term.

(c) A person who has been appointed and subsequently reappointed to the commission by the same governor in any capacity described in subsection (2)(a)(XI) of this section may not be appointed by the same governor to serve in any other capacity described in said subsection (2)(a)(XI).

(4) (a) The governor shall select the chairperson and vice-chairperson of the commission from among its members.

(b) The members of the commission shall serve without compensation except as otherwise provided in section 2-2-326, C.R.S., and except that the members of the commission may be reimbursed for any actual and necessary travel expenses incurred in the performance of their duties under this article. [Note: See Compensation and Expenses in "Related Colorado Revised Statutes" below.]

(5) The commission may establish by-laws as appropriate for its effective operation.

(6) The commission shall meet at least once per month or on a schedule determined by the chairperson to review information necessary for making recommendations.

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(7) Members of the commission, employees, and consultants shall be immune from suit in any civil action based upon any official act performed in good faith pursuant to this article.

### ["ELEMENT 3"]

#### **16-11.3-103. Duties of the commission - mission - staffing**

(1) The mission of the commission is to enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the commission will focus on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds.

(2) The commission shall have the following duties:

(a) To conduct an empirical analysis of and collect evidence-based data on sentencing policies and practices, including but not limited to the effectiveness of the sentences imposed in meeting the purposes of sentencing and the need to prevent recidivism and revictimization;

(b) To investigate effective alternatives to incarceration, the factors contributing to recidivism, evidence-based recidivism reduction initiatives, and cost-effective crime prevention programs;

(c) To make an annual report of findings and recommendations, including evidence-based analysis and data;

(d) To study and evaluate the outcomes of commission recommendations as implemented;

(e) To conduct and review studies, including but not limited to work and resources compiled by other states, and make recommendations concerning policies and practices in the criminal and juvenile justice systems. The areas of study shall include, but are not limited to, the reduction of racial and ethnic disparities within the criminal and juvenile justice systems. The commission shall prioritize areas of study based on the potential impact on crime and corrections and the resources available for conducting the work.

(f) To work with other state-established boards, task forces, or commissions that study or address criminal justice issues.

(g) (I) To study whether existing criminal statutes address abuse of a child or youth in a facility and issue corresponding recommendations concerning any identified gaps in law that may need to be addressed. On or before July 1, 2019, the commission shall provide a report with its findings and recommendations to the judiciary and the public health care and human services committees of the house of representatives and the judiciary and the health and human services committees of the senate, or any successor committees.

(II) For purposes of this subsection (2)(g), "facility" means a residential child care facility, specialized group facility, foster care home, family child care home, or any other facility subject to the Colorado "child care licensing act", Part 1 of Article 6 of Title 26; noncertified kinship care providers that provide care for children with an open child welfare case who are in the legal custody of a county department; or a facility or community placement, as described in Section 19-2-403, for a juvenile committed to the custody of the department of human services. "Facility" does not include any adult detention or correctional facility.

(2.5) (a) Using empirical analysis and evidence-based data, the commission shall study sentences in Colorado.

(b) to (d) Repealed.



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(2.7) and (2.8) Repealed.

(3) The commission shall establish advisory committees that focus on specific subject matters and make recommendations to the full commission. The chairperson of the commission shall select the chairpersons for the advisory committees as well as the commission members to serve on the advisory committees. The chairperson of an advisory committee may select noncommission members from interested members of the community to serve on the advisory committee. Each advisory committee shall make findings and recommendations for consideration by the commission. Noncommission members of an advisory committee shall serve without compensation and without reimbursement for expenses.

(4) The commission, at its discretion, may respond to inquiries referred by members of the general assembly, the governor, and the chief justice of the Colorado supreme court, as resources allow.

(5) (a) The division of criminal justice in the department of public safety, in consultation with the department of corrections, shall provide resources for data collection, research, analysis, and publication of the commission's findings and reports.

(b) Upon the request of the commission, the office of legislative legal services created pursuant to section 2-3-501, C.R.S., shall provide a staff member to attend meetings of the commission.

(6) The commission is encouraged to create and make publicly available a document describing the provisions of section 18-1-711, C.R.S. [Note: Part title, Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions.]

(7) On or before May 1 of each even-numbered year, the commission shall request a letter from the governor suggesting topics for the commission to study. In preparing the letter, the governor is encouraged to consult with the chief justice of the Colorado supreme court and the majority and minority leaders of the house of representatives and the senate.

### **["ELEMENT 4"]**

#### **16-11.3-104. Colorado commission on criminal and juvenile justice cash fund - created - donations**

(1) The department of public safety and the commission are authorized to accept gifts, grants, or donations, including in-kind donations from private or public sources, for the purposes of this article. All private and public funds received through gifts, grants, or donations by the department of public safety or by the commission shall be transmitted to the state treasurer, who shall credit the same to the Colorado commission on criminal and juvenile justice cash fund, which fund is hereby created and referred to in this article as the "cash fund". Any moneys in the cash fund not expended for the purposes of this article shall be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the cash fund shall be credited to the cash fund. Any unexpended and unencumbered moneys remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or any other fund.

(2) The department of public safety shall not be required to solicit gifts, grants, or donations from any source for the purposes of this article.

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### ["ELEMENT 5"]

#### **16-11.3-105. Repeal of article**

This article 11.3 is repealed, effective July 1, 2023. Prior to such repeal, the department of regulatory agencies shall review the commission as described in section 2-3-1203. [Note: See Sunset review in "Related Colorado Revised Statutes" below.]

### ["ELEMENT 6"]

#### **24-1-128.6. Department of public safety - creation - repeal**

(8) (a) The Colorado commission on criminal and juvenile justice, created pursuant to section 16-11.3-102, C.R.S., shall exercise its powers and perform its duties and functions as if the same were transferred by a type 2 transfer to the department of public safety.

### **RELATED Colorado Revised Statutes**

#### **§24-1-105. Types of transfers (see ELEMENTS 2 and 6 above)**

(1) Under this article, a type 1 transfer means the transferring intact of an existing department, institution, or other agency, or part thereof, to a principal department established by this article. When any department, institution, or other agency, or part thereof, is transferred to a principal department under a type 1 transfer, that department, institution, or other agency, or part thereof, shall be administered under the direction and supervision of that principal department, but it shall exercise its prescribed statutory powers, duties, and functions, including rule-making, regulation, licensing, and registration, the promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications, independently of the head of the principal department. Under a type 1 transfer, any powers, duties, and functions not specifically vested by statute in the agency being transferred, including, but not limited to, all budgeting, purchasing, planning, and related management functions of any transferred department, institution, or other agency, or part thereof, shall be performed under the direction and supervision of the head of the principal department.

(2) Under this article, a type 2 transfer means the transferring of all or part of an existing department, institution, or other agency to a principal department established by this article. When all or part of any department, institution, or other agency is transferred to a principal department under a type 2 transfer, its statutory authority, powers, duties, and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting, purchasing, and planning, are transferred to the principal department.

(3) Under this article, a type 3 transfer means the abolishing of an existing department, institution, or other agency and the transferring of all or part of its powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds to a principal department as specified under this article.

(4) When any department, institution, or other agency, or part thereof, is transferred by a type 2 or type 3 transfer to a principal department under the provisions of this article, its prescribed powers, duties, and functions, including rule-making, regulation, licensing, promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications are transferred to the head of the principal department into which the department, institution, or other agency, or part thereof, has been transferred.

#### **§24-4.1-302 (5). [Victim Rights] Definitions (see ELEMENT 2 above)**

(5) "Victim" means any natural person against whom any crime has been perpetrated or attempted, unless the person is accountable for the crime or a crime arising from the same conduct or plan as crime is defined under the laws of this state or of the United States, or, if such person is deceased or incapacitated, the person's spouse, parent, legal guardian, child, sibling, grandparent, grandchild, significant other, or other lawful representative. For purposes of notification under this part 3, any person under the age of eighteen years is considered incapacitated, unless that person is legally

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emancipated. It is the intent of the general assembly that this definition of the term "victim" shall apply only to this part 3 and shall not be applied to any other provision of the laws of the state of Colorado that refer to the term "victim".

### **§13-90-107(1)(k)(ii). Who may not testify without consent - definitions (see ELEMENT 2 above)**

(II) For purposes of this paragraph (k), a "victim's advocate" means a person at a battered women's shelter or rape crisis organization or a comparable community-based advocacy program for victims of domestic violence or sexual assault and does not include an advocate employed by any law enforcement agency:

- (A) Whose primary function is to render advice, counsel, or assist victims of domestic or family violence or sexual assault; and
- (B) Who has undergone not less than fifteen hours of training as a victim's advocate or, with respect to an advocate who assists victims of sexual assault, not less than thirty hours of training as a sexual assault victim's advocate; and
- (C) Who supervises employees of the program, administers the program, or works under the direction of a supervisor of the program.

### **§2-2-326. Compensation and expenses for members appointed to and serving on state entities - definition (see ELEMENT 2 above)**

(1) Notwithstanding any law to the contrary:

(a) While appointed to any state entity and serving on any state entity during regular and special sessions of the general assembly, in addition to the base compensation specified in section 2-2-307 (1), current members of the general assembly are entitled to receive only the per diem lodging and expense allowances and the travel expenses authorized by section 2-2-317; and

(b) While appointed to and serving on any state entity when the general assembly is in recess for more than three days or is not in session, in addition to the base compensation specified in section 2-2-307 (1), current members of the general assembly are entitled to receive the amount specified in section 2-2-307 (3)(a) for necessary attendance at meetings of the state entity and reimbursement for all actual and necessary travel and subsistence expenses incurred in connection with attendance at meetings of the state entity. Mileage rates shall not exceed those authorized for the executive department. All compensation paid and reimbursements made pursuant to this paragraph (b) shall be paid from appropriations made to the legislative department.

(2) For purposes of this section, "state entity" means any board, commission, committee, task force, authority, enterprise, council, working group, review team, or other entity created or authorized by statute on which current members of the general assembly are statutorily required to be appointed to serve; except that "state entity" does not include the Colorado commission on uniform state laws created in section 2-3-601 (1) or the education commission of the states created pursuant to section 24-60-1201, C.R.S.

### **§2-3-1203 (1), (2), and (14). Sunset review of advisory committees - legislative declaration - definition - repeal (see ELEMENT 5 above)**

(1) (a) The general assembly finds and declares that advisory committees are beneficial to government since they help involve private citizens in the daily operations of government and provide the government with a system for using the expertise of its citizens. However, historically there was no legislative supervision that would allow for the systematic review of these committees to identify those committees that may have outlived their usefulness yet remained in the statutes and those committees that may have failed to perform the functions for which they were created. To assure that newly created advisory committees are supervised and subjected to review, the life of a newly created advisory committee may not exceed ten years, and the statutory authorization for the committee must include a corresponding repeal provision. The general assembly, acting by bill, may reschedule the review date for an advisory committee to a later date if the rescheduled date does not violate the ten-year maximum life provision. Newly created advisory committees are subject to the review provisions of this section.

(b) As used in this section, "advisory committee" means an advisory body, including but not limited to a commission, council, or board.

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- (2) (a) A legislative committee of reference designated pursuant to section 2-3-1201 shall consider whether to continue or to continue with modification an advisory committee whose statutory authority is scheduled to repeal and may recommend the consideration of a bill as it deems necessary to continue the advisory committee.
- (b) (I) Each advisory committee shall submit the following information to the department of regulatory agencies:
- (A) The names of the current members of the advisory committee;
  - (B) All revenues and all expenditures, including advisory committee expenses per diem paid to members and any travel expenses;
  - (C) The dates the advisory committee met and the number of members who attended each meeting;
  - (D) A list of the advisory proposals the advisory committee made and an indication as to whether each proposal was acted on, implemented, or enacted into statute; and
  - (E) The reasons why the advisory committee should continue.
- (II) The information required by subparagraph (I) of this paragraph (b) must be for the fiscal year in which the advisory committee makes the submission as well as the prior fiscal year. The advisory committee must submit the information before July 1 of the year preceding the year in which the statutory authorization for the advisory committee repeals.
- (III) The department of regulatory agencies shall analyze and evaluate the performance of each advisory committee scheduled for repeal under this section. The department of regulatory agencies shall submit a report setting forth the analysis and evaluation to the office of legislative legal services by October 15 of the year preceding the date established for repeal.
- (c) A legislative committee of reference designated in section 2-3-1201 shall conduct hearings for each advisory committee that submits the information required by paragraph (b) of this subsection (2).
- (d) A bill recommended for consideration under this subsection (2) must be introduced in the house of representatives in even-numbered years and in the senate in odd-numbered years.
- (e) A bill recommended for consideration under this subsection (2) does not count against the number of bills to which the sponsor is limited by a law or joint rule of the senate and house of representatives.
- (14) (a) The following statutory authorizations for the designated advisory committees are scheduled for repeal on September 1, 2023:
- (VII) The Colorado commission on criminal and juvenile justice created in section 16-11.3-102.