



Vehicular Homicide Recommendations

Mothers Against Drunk Driving Colorado

October 10, 2022

Presented to the Sentence Structure Working Group
of the Sentencing Reform Task Force (SRTF) of the Colorado Commission on Criminal and Juvenile Justice (CCJJ)

INTRODUCTIONS

- Fran Lanzer, Regional Executive Director
- Jocelyn Rhymer, Victim Services Director
- Erin Agee, MADD CO Legislative Committee member



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MADD'S MISSION

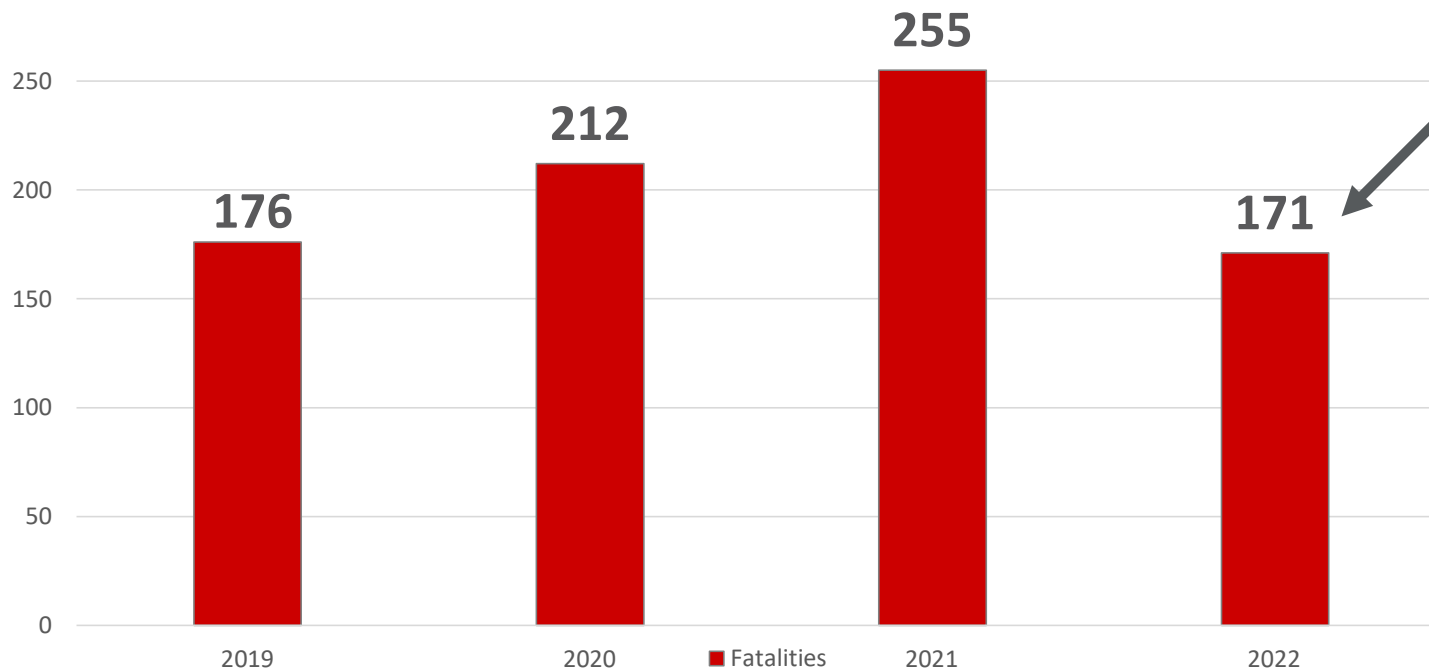
- End drunk driving
- Help fight drugged driving
- Support the victims of these violent crimes
- Prevent underage drinking



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MADD'S MISSION

Suspected Impairment Fatalities (CDOT Fatal Crash Data)



**Up 7.5%
vs 2021
(as of 8/31)**



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MADD'S MISSION



Dalton
Makepeace
McCreary



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MADD CO LEGISLATIVE COMMITTEE

- Erin Agee, aunt of Dalton Makepeace McCreary
- Barbara Brodt, daughter of Dorothy & Wesley Brodt
- Suzanne McClung, injured victim
- Matt Mitchell, Director of Strategic Partnerships at SOBRsafe
- Kimberly Mowat, daughter of Theresa & Newt
- Clara Shelton, sister of Sam Shelton
- Polli & Howard Small, parents of Ethan Small



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PUBLIC POLICY APPROACH

- Evidence-based solutions
- Save lives and prevent injuries
- Prevent repeat DUIs
- Advocate for victims & survivors



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DEVELOPING RECOMMENDATIONS

- Researched Vehicular Homicide laws in 50 states
- Build on case experience in CO
- Capture Crime of Violence cases
- Treat DUI & DWAI similarly
- Focused on Vehicular Homicide first



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DEVELOPING RECOMMENDATIONS

- Recommending 3 tiers similar to NY:
 - *2nd Degree Vehicular Homicide*
 - *1st Degree Vehicular Homicide*
 - *Aggravated Vehicular Homicide*
- Components of aggravated driving
- Increase the sentencing range



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INCREASING SENTENCE RANGES

Vehicular Homicide DUI (Current Class 3 felony)

- Maximum Sentence – 12 years
- 50% Parole Eligibility – 6 years
- Less good & earned time – **4.5 years**



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INCREASING SENTENCE RANGES

Vehicular Homicide DUI (if moved to Class 2 felony)

- Maximum Sentence – 24 years
- 50% Parole Eligibility – 12 years
- Less good & earned time – **9 years**



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2ND DEGREE VEHICULAR HOMICIDE

If a person operates or drives a motor vehicle in a reckless manner, and such conduct is the proximate cause of the death of another, such person commits vehicular homicide in the second degree.



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2ND DEGREE VEHICULAR HOMICIDE

- Sentencing Range: 4-12 years
- Probation Eligible: Yes
- Parole Eligibility: 50% of sentence less good time & earned time



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1ST DEGREE VEHICULAR HOMICIDE

- Impaired Driving: If a person commits DUI or DWAI, and such conduct is the proximate cause of the death of another, such person commits vehicular homicide in the first degree.
- Reckless Driving: If a person operates or drives a motor vehicle in a reckless manner, and such conduct is the proximate cause of the death of another, *and a component of aggravated driving exists*, such person commits vehicular homicide in the first degree.



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1ST DEGREE VEHICULAR HOMICIDE

- Sentencing Range: 8-24 years
- Probation Eligible: Yes
- Parole Eligibility: 50% of sentence less good time & earned time



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AGGRAVATED VEHICULAR HOMICIDE

If a person commits DUI or DWAI, and such conduct is the proximate cause of the death of another, *and a component of aggravated driving exists*, such person commits aggravated vehicular homicide.



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AGGRAVATED VEHICULAR HOMICIDE

- Sentencing Range: 16-40 years
- Probation Eligible: No
- Parole Eligibility: 75% of sentence less earned time
- Mirrors the current sentencing on 2nd Degree Murder cases



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AGGRAVATED DRIVING COMPONENTS

2nd Degree Vehicular Homicide + Aggravated Driving
= *1st Degree Vehicular Homicide*

1st Degree Vehicular Homicide + Aggravated Driving
= *Aggravated Vehicular Homicide*



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AGGRAVATED DRIVING COMPONENTS

Recommended:

- Causing the death of more than one other person (IL, NY, PA)
- Prior DUI or DWAI conviction in past 10 years (IN, NC, NY, OR, VT)
- Prior vehicular homicide, vehicular assault, or felony DUI conviction (OK, OR, NY)
- Failing to stop at the scene of the crash (FL)
- Causing the death of a child who is under the age of sixteen years (AZ & NY)



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AGGRAVATED DRIVING COMPONENTS

Recommended from CO Revised Statutes:

- Committing DUI or DWAI with at least one child in the vehicle (AKA child endangerment—which is considered child abuse under CRS 18-6-401)
- Causing the death of a vulnerable road user as defined in CRS 42-4-1402.5
- Committing vehicular unlawful termination of the pregnancy of another person as defined in CRS 18-3.5-107 (FL, MN, ND, OH, SD & WI)



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AGGRAVATED DRIVING

We had concerns about these:

- BAC of .15 or more: (AZ, LA & NY)
- Driving under revocation or suspension (GA & NY)
 - In 2020, 45% of drivers involved in fatal crashes had previously recorded suspensions or revocations according to NHTSA.
- Committing DUI or DWAI with two or more impairing substances



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RECAP

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Questions?