

# STATE OF COLORADO

## COLORADO DEPARTMENT OF CORRECTIONS

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**NOTE: Presented at the January 13, 2012 meeting of the Colorado Commission on Criminal and Juvenile Justice.**

John W. Hickenlooper  
Governor

Tom Clements  
Executive Director

TO: Doug Wilson

FROM: Maureen O'Keefe  
Bonnie Barr

DATE: October 28, 2011

RE: Comprehensive Sentencing Task Force of Colorado Commission on Criminal and Juvenile Justice; Habitual sentencing proposed revisions

Following is a summary of the proposed changes to the existing habitual offender sentencing laws and our analysis of the bed impact to the Department of Corrections. Please let me know if you have any questions about the data or calculations.

### Summary:

This proposal would modify the current Colorado Revised Statute (CRS) 18-1.3-801 - Punishment for habitual criminals. This would change the current sentencing scheme from four times the maximum of the presumptive range to three times the maximum of the presumptive range for crimes that are **not** listed in CRS 18-1.3-201(2.5)(b) and who has been **three times** previously convicted, upon charges separately brought and tried, and arising out of separate and distinct criminal episodes, either in this state or elsewhere, of a felony or, under the laws of any other state. The crimes included in this statute are first or second degree offenses including murder, kidnapping, assault and burglary; manslaughter, sexual offenses as described in part 4 of article 3, first degree arson, aggravated robbery, robbery and theft as describe in CRS 18-4-401(5), any felony against a child, and any attempt or conspiracy to commit any offense listed here. Failure to register as a sex offender is not considered a sexual offense for the purposes of this subsection. This proposal also changes the current sentencing scheme from the current sentencing structure which allows for three times the maximum of the presumptive range to two times the maximum of the presumptive range for crimes that are **not** listed in CRS 18-1.3-201(2.5)(b) the same set of offenses listed above who within ten years of the date of the commission of the said offense, has been **twice** previously convicted upon charges separately brought and tried, and arising out of separate and distinct criminal episodes. Additionally felony 4 Theft as defined in CRS 18-4-401(2) (C) (Theft  $\geq$  \$1,000 and  $<$ \$20,000) will no longer be eligible for an enhanced habitual sentence or attempts or conspiracy to commit this offense.

### Data:

In fiscal year 2010 the Colorado Department of Corrections received 15 offenders sentenced at three times the maximum of the presumptive range for two previous convictions and 37 offenders under four times the maximum for three previous convictions on their most serious offense.

Under these proposed changes 32 offenders would be eligible for a reduced sentence; 10 offenders would fall under reduced two times the maximum and 22 offenders would fall under the reduced three times the maximum.

In future years, based on 2010 admissions, the Department could save 184 years based on this one year of admissions with the savings beginning in fiscal year 2018. The average current sentence for the 32 offenders is 21 years, and this proposal would reduce their sentences on average by 6 years. In the fifth year six offenders will release 1.5 years earlier than they would under currently statute, this saving is 6 months for the five year analysis model and 2 offenders will releases two years earlier than they would under currently statute, this savings is one year for fiscal impact five year analysis model.

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