



Colorado Commission on Criminal and Juvenile Justice

Minutes

Electronic Meeting
February 14, 2014

Commission Members Participating

James H. Davis, Chairman	Evelyn Leslie	Pat Steadman
Theresa Cisneros	Beth McCann	Alaurice Tafoya-Modi
Sallie Clark	Jeff McDonald	Peter Weir
Matthew Durkin	Norm Mueller	Doug Wilson
Kelly Friesen	Kevin Paletta	Meg Williams
Charles Garcia	Joe Pelle	Dave Young
Kate Horn-Murphy	Eric Philp	Jeanne Smith, <i>Ex officio</i>
Julie Krow	Rick Raemisch	

Absent: Steve King, Mark Waller, Brandon Shaffer

ELECTRONIC MEETING

This electronic meeting occurred over a 10-day period, but was assigned the originally-scheduled meeting date of February 14, 2014 for the purpose of these Minutes. The Commission conducted an electronic discussion of and vote on the recommendation below between January 27, 2014 and February 6, 2014. All current business having been completed, the regularly-scheduled (physical) meeting of the Commission on February 14, 2014 was cancelled.

ELECTRONIC MEETING COMMENCED MONDAY, JAN. 27, 2014 AT 12:12PM.

RECOMMENDATION VOTE

BACKGROUND. Last year (2013), the CCJJ recommended harmonizing several theft offenses. One value-based offense, 1st Degree Motor Vehicle Theft, did not have consensus at the time and work continued. At the January 10, 2014 meeting, the Comprehensive Sentencing Task Force presented Recommendation FY14-CS #3 on 1st Degree Motor Vehicle Theft to the Commission. This recommendation incorporates value-based delineations comparable to the new theft statute for class 3, 4, and 5 felony offense levels. No changes will be made to either the repeat offender or 2nd Degree Motor Vehicle Theft. The recommendation is appended below.

DISCUSSION. Following a period of review and comment between January 27, 2014 and January 30, 2014, there was one minor correction to the recommendation. Under 3(a) of the proposed statutory changes (to 18-4-409(3), C.R.S.), the text, “twenty thousand dollars or less,” was changed to “less than twenty thousand dollars.” No other changes were moved or suggested. On January 30, 2014, the final wording of the recommendation was distributed to Commission members for review.

VOTE. The final version of Recommendation FY14-CS #3 was submitted to Commission members for a vote on February 3, 2014. The voting period concluded on February 6, 2014 employing the “supermajority” vote protocol (Note: Requires 75% of members selecting the support or neutral vote alternatives). Commission members were informed of the vote outcome on February 6, 2014. The following was the vote outcome:

Recommendation FY14-CS #3: APPROVED

- 19 – I support
- 3 – I can live with it
- 0 – I do not support

CONCLUSION

In addition to the vote outcome mentioned above, Commission members were reminded of upcoming Commission meetings. A one and one-half day retreat will be held on March 13th and 14th at the Boettcher Mansion (900 Colorow Rd, Golden, CO 80401). The half-day session on the 13th will cover three areas: an update on national criminal justice trends; efforts in Colorado; progress made and potential areas for improvement. In light of conclusions from the previous half-day, the following day will include six hours of strategic planning for the Commission. A guest facilitator in the criminal justice field will conduct the meeting.

The April 2014 meeting will also not be held at the regular meeting location. Currently, the April Commission meeting is scheduled to occur at the Lakewood Cultural Center at 480 South Allison Parkway, Lakewood, CO 80226. Check the Commission calendar for updates (colorado.gov/ccjdir/Calendar/CCJJCalendar.html)

ELECTRONIC MEETING CONCLUDED THURSDAY, FEB. 6, 2014 AT 3:14PM.

COMPREHENSIVE SENTENCING TASK FORCE
RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
February 3, 2014

FY14-CS #3 Harmonize First Degree Aggravated Motor Vehicle Theft offense levels with the 2013 amendment to Colorado's theft statute.

Recommendation FY14-CS #3:

The Comprehensive Sentencing Task Force has previously recommended amending the statutes defining the following value-based crimes, thereby harmonizing their offense levels with the General Assembly's recent revisions to the theft statute:

- Criminal Mischief, § 18-4-501
- Fraud by Check, § 18-5-205
- Defrauding a Secured Creditor, § 18-5-206
- Unauthorized Use of a Financial Transaction Device, § 18-5-702
- Computer Crime, § 18-5.5-102

This recommendation adds one additional value-based crime, also harmonizing its offense levels with the General Assembly's recent revisions to the theft statute:

- Aggravated Motor Vehicle Theft in the First Degree, § 18-4-409(3)

Discussion:

In 2013 the General Assembly amended the monetary amounts associated with the various offense levels for the crime of theft. That amendment established a petty offense for crimes involving less than fifty dollars, raised the felony threshold to two thousand dollars, and eliminated previously existing gaps between offense levels. The crime of theft is now punishable as a class 1 petty offense up to a class 2 felony, depending upon the value of the thing involved.

The Comprehensive Sentencing Task Force set out to evaluate whether other value-based offenses could and should be amended to reflect the offense levels associated with the new theft statute.

This recommendation for Aggravated Motor Vehicle Theft in the First Degree incorporates value-based delineations comparable to the new theft statute for the class 3, 4, and 5 felony offense levels. It makes no changes to either the repeat offender or second degree portions of the statute.

The Task Force's exact recommendation is expressed below. Proposed new language in the applicable statutes is highlighted. Currently existing language, which would be replaced if this recommendation is adopted, is shown in strikethrough.

Aggravated Motor Vehicle Theft: §18-4-409

(1) As used in this section, unless the context otherwise requires:

(a) "Motor vehicle" means all vehicles of whatever description propelled by any power other than muscular, except vehicles running on rails.

(b) "Vehicle identification number" means the serial number placed upon the motor vehicle by the manufacturer thereof or assigned to the motor vehicle by the department of revenue.

(2) A person commits aggravated motor vehicle theft in the first degree if he or she knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and:

(a) Retains possession or control of the motor vehicle for more than twenty-four hours; or

(b) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle; or

(c) Attempts to alter or remove or alters or removes the vehicle identification number; or

(d) Uses the motor vehicle in the commission of a crime other than a traffic offense; or

(e) Causes five hundred dollars or more property damage, including but not limited to property damage to the motor vehicle involved, in the course of obtaining control over or in the exercise of control of the motor vehicle; or

(f) Causes bodily injury to another person while he or she is in the exercise of control of the motor vehicle; or

(g) Removes the motor vehicle from this state for a period of time in excess of twelve hours; or

(h) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

(3) Aggravated motor vehicle theft in the first degree is a:

(a) Class ~~5~~ 4 felony if the value of the motor vehicle or motor vehicles involved is **LESS THAN TWENTY THOUSAND DOLLARS** ~~TWENTY THOUSAND DOLLARS OR LESS;~~

(B) CLASS 4 FELONY IF THE VALUE OF THE MOTOR VEHICLE OR MOTOR VEHICLES INVOLVED IS TWENTY THOUSAND DOLLARS OR MORE, BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;

~~(C)~~ **(C)** Class 3 felony if the value of the motor vehicle or motor vehicles involved is more than **ONE HUNDRED** ~~twenty~~ thousand dollars or if the defendant has twice previously been convicted or adjudicated of charges separately brought and tried either in this state or elsewhere of an offense involving theft of a motor vehicle under the laws of this state, any other state, the United States, or any territory subject to the jurisdiction of the United States.

(4) A person commits aggravated motor vehicle theft in the second degree if he or she knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and if none of the aggravating factors in subsection (2) of this section are present. Aggravated motor vehicle theft in the second degree is a:

(a) Class 5 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more;

(b) Class 6 felony if the value of the motor vehicle or motor vehicles involved is one thousand dollars or more but less than twenty thousand dollars;

(c) Class 1 misdemeanor if the value of the motor vehicle or motor vehicles involved is less than one thousand dollars.

(4.5) Whenever a person is convicted of, pleads guilty or nolo contendere to, receives a deferred judgment or sentence for, or is adjudicated a juvenile delinquent for, a violation of this section, the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S.

(5) Consistent with section 18-1-202, if the theft of a motor vehicle occurs in one jurisdiction and the motor vehicle is recovered in another jurisdiction, the offender may be tried in the jurisdiction where the theft occurred, in any jurisdiction through which the motor vehicle was operated or transported, or in the jurisdiction in which the motor vehicle was recovered.

**FY14 Current and Proposed
Aggravated Motor Vehicle Theft in the First Degree
§18-4-409**

Current Offense Levels		Proposed Offense Levels	
Offense Level	Value	Offense Level	Value
F3	More than \$20K, or repeat offender	F3	\$100K or more, or repeat offender
F4	\$20K or less	F4	\$20K - \$100K
F5		F5	Less than \$20K
F6		F6	
M1		M1	
M2		M2	
M3		M3	
PO1		PO1	
