



FY2010 RECOMMENDATION/FY10-D43 POLICY STATEMENT AND DRUG LAW PHILOSOPHY

Status: Implementation Complete

Actions/Updates

2013 UPDATE

Reports regarding the impacts of House Bill 2010-1352 were completed between 2012 and 2013 by the Division of Criminal Justice, Office of Research and Statistics (These reports are available at ors.colorado.gov/ors-reports.)

2012 ACTION/IMPLEMENTATION

These policy statements were taken into consideration when redefining 18-18-401, C.R.S., which was included in House Bill 2010-1352.

Description

The following policy statements provide the context for the recommendations that follow and were developed, in part, as a proposed replacement of C.R.S. 18-18-401.

D43A. The Commission on Criminal and Juvenile Justice recommends that the public policy of Colorado recognize alcoholism and substance use disorders as illnesses and public health problems affecting the health, safety, economy, and general welfare of the state.

D43B. The Commission recommends that the Colorado General Assembly seek to improve public safety, reduce recidivism, and promote substance abuse treatment by implementing a system of evidence-based sentencing practices and community-based interventions that focus on the individual defendant.

This approach will combine accountability, risk and needs assessments, criminal penalties, and appropriate treatment for individuals who are addicted to substances and convicted of criminal offenses. This system will differentiate among the following types of individuals:

- a) a defendant who is an illegal drug user but is not addicted or involved in other criminal activity;
- b) a defendant who is addicted but is not otherwise engaged in other criminal activity;
- c) a defendant who is addicted and engaged in nonviolent crime to support their addiction;
- d) a defendant who is addicted and engaged in violent crime; and
- e) a defendant who is engaged in drug trafficking or manufacture for profit who is not addicted to illegal drugs.

D43C. Persons addicted to or dependent on controlled substances and whose criminal behavior is associated with the addiction should, upon conviction, be sentenced in a manner most likely to promote rehabilitation and to be consistent with public safety.

D43D. For those sentenced to the community for a drug crime and who are found to be addicted to or dependent on controlled substances, meaningful interventions should be available and applied to non-violent as well as violent offenders based upon individual needs and demonstrated risk to the community.

D43E. The manufacture, distribution and delivery of illicit controlled substances have a substantial and detrimental effect on the health and general welfare of the people of this state, especially children. As such, persons who habitually or commercially engaged in the trafficking of illicit substances and prescription drugs present a menace to public health and safety.

D43F. The purpose of sentencing *occasional users and experimenters* is to induce them to shun further contact with controlled substances and to learn acceptable alternatives to drug abuse. This approach requires differentiating recreational or one-time users with few or no addiction treatment needs from those who are chemically dependent and require treatment.

D43G. Because addiction is a chronic disease, drug relapse and return to treatment are common features in the path to recovery for individuals with substance use disorders. Therefore, judges, district attorneys, public defenders, private attorneys, probation officers, parole officers, and other professionals involved in the criminal justice system must anticipate, recognize, plan for, and appropriately respond to the potential for relapse that may occur for individuals involved in treatment.

D43H. The purpose of sentencing defendants with treatment needs can be achieved by promoting evidence-based sentencing of individuals convicted of drug-related offenses. Strategies include the following:

- a) Allowing judges and other judicial officers to use available information and resources to develop informed and flexible evidence-based sentencing plans that meet the needs of the individual offender, that
 - i. ensure appropriate safeguards to protect the defendant's rights while assigning the individual to appropriate treatment programs, and
 - ii. are based on, when practical, the risk level and treatment needs of the offender as determined by objective assessment tools.
- b) Allowing for the appropriate combination of supervision and treatment based on research indicating that this combined approach has the greatest likelihood of recidivism reduction and protecting the public.
- c) Allowing for consideration of the significant collateral consequences that a criminal record has on employment and lifetime earnings of drug-related convictions, and how such convictions can undermine successful community reintegration.
- d) Using treatment programs with demonstrated rates of success.
- e) Targeting interventions to offenders with moderate- to high-level treatment needs rather than those identified with low-risk and low-needs.
- f) Targeting individuals who could benefit from appropriate treatment programs.

Agencies Responsible

Discussion

Providing community-based treatment for offenders who suffer from alcoholism and drug abuse -- and mental health problems associated with these addictions -- will improve public safety by reducing the likelihood that such individuals will have further contact with the criminal justice system. This strategy will provide substantial savings to the taxpayer. The research unequivocally finds that substance abuse treatment reduces drug use and criminal behavior. Research demonstrates that successful treatment:

- a) occurs at the earliest possible opportunity,*
- b) is based on an individual treatment plan that incorporates natural communities and pro-social supports,*
- c) includes family members when they offer a positive impact on the recovery process, and*
- d) provides a continuum of community-based services.*

To reduce recidivism, therapeutic intervention rather than incarceration alone is required to treat alcoholism and illicit drug use disorders as well as mental illnesses related to these addictions. Prison should be reserved for violent, frequent or serious offenders. Savings that are achieved from reduced confinement of drug offenders shall be directed toward the counties to implement evidence-based sentencing and treatment interventions.

Footnotes

Note: Much of the research that supports these recommendations and statements can be found at <http://www.drugabuse.gov/drugpages/cj.html>. This page contains links to multiple reports conducted and/or supported by The National Institute on Drug Abuse (NIDA) regarding criminal justice and drug abuse.