



FY2011 RECOMMENDATION/FY11-D08 REVISE HABITUAL CRIMINAL OFFENSE CHARGES IN RELATION TO DRUG OFFENDERS

Status: Implementation Complete

Actions/Updates

2012 ACTION/IMPLEMENTATION

Action on this recommendation was completed with the passage of Senate Bill 11-096.

Description

Simple possession drug offenses (Class 6 felony or attempt or conspiracy to commit simple possession) shall not qualify as the presenting offense for the filing of habitual criminal offense charges under 18-1.3-801, CRS. This change in law would be effective only for new offenses committed after the 2011 effective date of the bill.

Agencies Responsible

Discussion

In 2009, the Commission voted for and supported a new approach to sentencing drug offenses that clearly distinguished possession offenses from sale, distribution, or intent to distribute offenses. The new approach emphasizes a combination of treatment and accountability, and is consistent with the approach recommended by the National Institute on Drug Abuse (see footnote). A review of the data (see Table 4.2 in FY 2011 Annual CCJJ Report) indicates that the charge of possession of a controlled substance is infrequently used as a presenting offense for habitual offender charges; nevertheless, this recommendation is intended to ensure consistency in charging practices across the state and to emphasize that a possession offense should be treated differently from other drug crimes.

Footnotes

Note: This philosophy is expressed in the Commission's November 2009 report and its December 2009 addendum to that report, and may be found at the following links: http://www.colorado.gov/ccjdir/Resources/Resources/Report/2009-11_SB286Plan.pdf and http://www.colorado.gov/ccjdir/Resources/Resources/Report/2009-11_SB286Dec-Addendum.pdf