



**FY2012 RECOMMENDATION/FY12-CS01 REMOVE WALKAWAY ESCAPES AS ELIGIBILITY FOR HABITUAL CRIMINAL SENTENCING**

**Status:** Implementation Complete

**Actions/Updates**

**2017 ACTION UPDATE**

House Bill 2017-1330 modified 18-1.3-801, C.R.S., which was the focus of this recommendation. Statute was modified from "a conviction" to "a current or prior conviction" and redefined the "correctional facility" exclusion to remove escapes and attempted escapes from a community corrections facility or halfway house as considerations eligible for habitual criminal sentencing.

**2012 ACTION/IMPLEMENTATION**

Action on this recommendation was completed with the passage of House Bill 12-1213.

**Description**

Add the following subsection to CRS 18-1.3-801:

(2.6) THE PROVISIONS OF PARAGRAPHS (1.5) AND (2)(A) SHALL NOT APPLY TO A CONVICTION OF FELONY ESCAPE PURSUANT TO SECTION 18-8-208(1), (2) AND (3) OR FOR A CONVICTION OF ATTEMPT TO ESCAPE PURSUANT TO SECTION 18-8-208.1(1), (1.5) AND (2) UNLESS THE PLACE OF CUSTODY OR CONFINEMENT IS A CORRECTIONAL FACILITY AS DESCRIBED IN SECTION 17-1-104.3 OR FROM INSIDE A COUNTY JAIL FACILITY OR FROM TRANSPORT IN PHYSICAL CUSTODY.

**Agencies Responsible**

**Discussion**

*The Commission recommends eliminating walkaway offenses from habitual criminal sentencing. The habitual criminal statute currently treats all felonies of the same class alike, regardless of the type of crime committed (with the exception of drug offenses). Walkaway escapes are, however, different than escapes from a DOC facility.*

*On average, three individuals per year escape from a secure DOC facility.\* Nevertheless, over 1,100 individuals are annually convicted of escape for behaviors that range from running from a police car to failing to return on time to a halfway house. For the same behavior that results in issuing an arrest warrant and pursuing a technical violation for those on probation, hundreds of individuals on parole and in community corrections receive lengthy prison sentences because of their criminal justice status.\*\**

*This proposal would eliminate walkaway offenses from eligibility as either a presenting offense or a predicate offense for purposes of habitual criminal charges. It would effectively define a “walkaway” offense as an escape or attempted escape from a place of custody or confinement other than a Department of Corrections (DOC) facility. Escape from a DOC facility would still be habitual-eligible as either a present offense or a predicate offense. Note that this proposal would in no way change the sentencing options currently available for escapes from the DOC, or for any criminal offense other than walkaways.*

### **Footnotes**

*\*For more information, please see pages 49-50 of the DOC’s Statistical Report: Fiscal Year 2010, available at*

*<http://www.doc.state.co.us/opa-publications/132>. Of the three escapes from DOC in 2010, one occurred while the inmate was out to court.*

*\*\*For more information, please see page 160 of the Commission’s 2008 annual report, Appendix I, “Escape: Mandatory Consecutive Sentences” a position paper prepared by the Post-Incarceration Supervision Reentry Task Force, available at*

*<http://cdpsweb.state.co.us/cccj/PDF/2008%20Recommendations/12-18-2008%20FINAL%20CCJJ%20Report.pdf>.*