



**FY2013 RECOMMENDATION/FY13-CS03 ELIMINATE COLORADO'S
EXTRAORDINARY RISK STATUTE**

Status: Partial Implementation

Actions/Updates

2023 UPDATE (JUNE)

During the FY 2023 Legislative Session, Senate Bill 2023-158 to reauthorize the Colorado Commission on Criminal and Juvenile Justice (CCJJ) was postponed indefinitely on May 7, 2023. Therefore, with the sunset of the Commission, all activities of the CCJJ ceased on June 30, 2023.

No further monitoring of CCJJ recommendations will occur.

2023 UPDATE (JUNE)

Limited action was taken on this recommendation during the FY 2023 Legislative Session in House Bill 1292 (Concerning the adoption of the 2023 recommendations of the Colorado Commission on Criminal and Juvenile Justice regarding enhanced sentencing). The bill eliminated Extraordinary Risk for Class 5 and 6 felonies.

2018 - 2019 UPDATE

No action was taken on this recommendation during these Legislative Sessions.

2017 ACTION TO DATE

CCJJ re-initiated action on this recommendation, but no sponsor was found.

2014 - 2016 UPDATE

No action on this recommendation

2013 UPDATE

Reflecting FY13-CS #03, House Bill 13-1148 was introduced January 18, 2013. On March 21, 2013, the House Judiciary Committee postponed the bill indefinitely.

2012 UPDATE

In response to the request for additional study in Recommendation FY10-S #04 (Aggravated Ranges, Extraordinary Risk Crimes, and Mandatory Minimum Sentences), the Comprehensive Sentencing Task Force revisited the topic in more depth. The Task Force produced FY13-CS #03 (Eliminate Colorado's Extraordinary Risk Statute), which was subsequently approved by the Commission in October 2012. It is expected that this recommendation will be drafted into a bill and presented to the 2013 General Assembly.

Description

Colorado's Revised Statutes pertaining to Crimes of Violence, Extraordinary Risk Crimes, and Aggravated Ranges are complex, convoluted and often duplicative. The CCJJ Comprehensive Sentencing Task Force recommends the following changes:

1. Eliminate Extraordinary Risk (18-1.3-402(10)) and move child abuse (18-6-401(1)(a);(7)(a)(I) and 18-6-401(1)(a);(7)(a)(III) and 2nd and subsequent stalking (18-3-602(3)(b)) to the Crime of Violence Statute (18-1.3-406) and strike 18-3-602(5) as follows:

~~If, at the time of the offense, there was a temporary r permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect against the person prohibiting the behavior described in this section, the person commits a class 4 felony. In addition, when a violation under this section is committed in connection with a violation of a court order, including but not limited to any protection order or any order that sets forth the conditions of a bond, any sentence imposed for the violation pursuant to this subsection (5) shall run consecutively and not concurrently with any sentence imposed pursuant to this section 18-6-803.5 and with any sentence imposed in a contempt proceeding for violation of the court order.~~

2. Change Crime of Violence and mandatory minimum (18-1.3-401(8)) ranges to set to the minimum of the presumptive range.
3. The upper end of the sentencing ranges for Crimes of Violence mirrors the current upper end ranges in the statute.

Agencies Responsible

Discussion

The goal of this recommendation is to simplify the sentencing code while at the same time providing the prosecution with more discretion in charging and negotiations, along with giving the bench more discretion in sentencing. This change would also increase sentencing possibilities for some child abuse and stalking offenses.

Eliminating Colorado's Extraordinary Risk Statute is also consistent with evidence-based sentencing practices and goals, while continuing public safety through incapacitation when necessary, but not mandatorily with high minimum mandatory ranges.

This recommendation continues previous discussions by the Commission reflected in FY10-S4 that requested a detailed analysis and careful study of aggravated ranges, extraordinary risk crimes and mandatory minimum sentences. That recommendation from the October 2010 annual report can be found in Appendix B of the 2013 CCJJ Annual Report.