



FY2013 RECOMMENDATION/FY13-DP01 REVISE DRUG SENTENCING CLASSIFICATIONS AND RANGES.

Status: Implementation Complete

Actions/Updates

2014 UPDATE - Legislative "clean up" From Senate Bill 14-163:

18-1.3-103.4. Senate Bill 13-250 - legislative intent - clarification of internal reference to level 4 drug felonies. THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING SENATE BILL 13-250 WAS TO ALLOW COURTS, FOR OFFENSES COMMITTED ON AND AFTER OCTOBER 1, 2013, TO VACATE CERTAIN LEVEL 4 DRUG FELONY CONVICTIONS AND ENTER PAGE 4-SENATE BILL 14-163 MISDEMEANOR CONVICTIONS IF THE OFFENDER COMPLETES COMMUNITY-BASED SENTENCING. WHILE THE TERM "LEVEL 4 DRUG FELONY" TO WHICH SECTION 18-1.3-103.5 (3) (b) REFERS WAS DESCRIBED IN SECTION 18-8-405 (2) (c) (II) OF THE INTRODUCED VERSION OF SENATE BILL 13-250, AN AMENDMENT TO THE BILL DURING THE LEGISLATIVE PROCESS MOVED THE LEVEL 4 DRUG FELONY DESCRIPTION TO SECTION 18-8-405 (2) (d). THE CONFORMING CHANGE WAS NOT MADE TO THE INTERNAL REFERENCE IN SECTION 18-1.3-103.5 (3) (b), RESULTING IN AN INCORRECT INTERNAL REFERENCE BEING PUBLISHED IN THE 2013 VERSION OF THE COLORADO REVISED STATUTES. WHEN ENACTING SENATE BILL 13-250, IT WAS THE INTENT OF THE GENERAL ASSEMBLY THAT THE LEVEL 4 DRUG FELONIES TO WHICH SECTION 18-1.3-103.5 (3) (b) REFERS BE THOSE DESCRIBED IN SECTION 18-8-405 (2) (d). ACCORDINGLY, BY THE PASSAGE OF SENATE BILL 14-163, ENACTED IN 2014, THE GENERAL ASSEMBLY CORRECTS THE INTERNAL REFERENCE FOUND IN SECTION 18-1.3-103.5 (3) (b). THE CORRECTION TO THE INTERNAL REFERENCE IS EFFECTIVE AS OF THE EFFECTIVE DATE OF SENATE BILL 13-250, OCTOBER 1, 2013, AND APPLIES TO OFFENSES COMMITTED ON OR AFTER OCTOBER 1, 2013.

2013 ACTION/IMPLEMENTATION

This recommendation was completed with the passage of Senate Bill 13-250. A report is due to the Colorado Legislature, from the Division of Criminal Justice, Office of Research and Statistics, regarding the implementation and impact of this bill.

2012 ACTION/IMPLEMENTATION

This recommendation requires statutory change to be implemented.

Description

The Drug Policy Task Force presents this proposal for a rewrite of the Controlled Substances Act that includes a separate sentencing framework based on a drug crime classification that has four felony offense levels, two misdemeanor offense levels and petty offenses. (Note: the current petty offense level will continue as in current law and is not addressed here.) Each felony offense level includes both a presumptive and aggravated sentencing range, except for the DF1. Each felony level also has a corresponding period of parole that would be a mandatory provision of any prison sentence.

Agencies Responsible

Discussion

This proposal is consistent with the policy goals of CCJJ, addresses most of the issues as identified in SB 12-1310 aka SB 12-163 and is a compromise of thoughts and ideas that make a thoughtful and well-reasoned sentencing scheme.

Successful drug treatment programs and drug courts commit to recovery. Colorado has moved a substantial amount of dollars into treatment, has expanded the eligible offenders and the permissible uses of those dollars and, with this proposal, members of the Drug Policy Task Force have addressed most of the concerns raised during last year's legislative session.

However, it is extremely important that many options other than incarceration are needed to address the drug problem we have in this state and country. The Commission should continue to explore civil and medical/health focused strategies, particularly as they may be effective in addressing the growing problem of prescription drug abuse/misuse. The idea is to expand our approaches and the "buckets" that can deal with this health/criminal justice problem. While we need a bit more time to detail those proposals, they are a very important part of this strategy.

The Commission considers the following important evidence-based information from its 2010 White Paper:

- *Providing community-based treatment for offenders who suffer from alcoholism and drug abuse – and mental health problems associate with these addictions – will improve public safety by reducing the likelihood that such individuals will have further contact with the criminal justice system. Research unequivocally finds that substance abuse treatment reduces drug abuse and criminal behavior.*
- *Prison should be reserved for violent, frequent or serious offenders.*
- *High rates of recidivism, high rates of substance use disorders in the offender population, and new research on the effect of addiction on the brain and behavior suggest it is time for a new approach.*

- *Client progress in early recovery is often marked by episodes of perceived stress, resumed drug use or full-blown relapse, and multiple treatment admissions. Too often treatment episodes are brief, sometimes lasting only a few weeks. This approach to care has been based on the notion that a client who enters and completes a single episode of care should then be able to maintain abstinence and continue the recovery process independently. Although some individuals can successfully recover within this framework, more than half of the clients entering substance abuse treatment today require multiples episode of care over several years to achieve and sustain recovery.*

Scientific evidence supports a blended public/health/public safety approach to dealing with the addicted offender.

Footnotes

Note: Other provisions, the proposed sentencing grid and specific statutory changes can be obtained by contacting CCJJ staff.