



FY2013 RECOMMENDATION/FY13-JJ04 REVISE ESCAPE CHARGES REGARDING SPECIFIC ADJUDICATED JUVENILES NOT CURRENTLY IN CUSTODY IN A STATE-OPERATED FACILITY

Status: Implementation Complete

Actions/Updates

2013 ACTION/IMPLEMENTATION

Action on this recommendation was completed with the passage of Senate Bill 13-229.

2012 ACTION/IMPLEMENTATION

This recommendation requires statutory change to be implemented.

Description

Revise 18-8-208 Escapes to provide that an adjudicated juvenile who turns 18 while in custody, but is not in custody in a state-operated facility, commits a class 3 misdemeanor rather than a felony if convicted of an escape.

Agencies Responsible

Discussion

Proposed Statutory Changes:

Add 18-8-208(4.1) to provide:

(4.1) A PERSON COMMITS A CLASS 3 MISDEMEANOR IF, HAVING BEEN ~~ADJUDICATED~~ COMMITTED TO DYC FOR A DELINQUENT ACT AND IS OVER 18 YEARS OF AGE, ESCAPES FROM A STAFF SECURE FACILITY AS DEFINED IN C.R.S. 19-1-103(101.5) OTHER THAN ~~the Adams Youth Services Center, the Gilliam Youth Services Center, the Foote Youth Services Center, The Mount View Youth Services Center, the Platte Valley Youth Services Center, the Grand Mesa Youth Services Center, the Lookout Mountain Youth Services Center, the Pueblo Youth Services Center, the Spring Creek Youth Services Center, and the Zebulon Pike Youth Services Center.~~ A STATE-OPERATED LOCKED FACILITY.

Amend 18-8-208(9) to provide:

(9) The minimum sentences provided by sections 18-1.3-401, 18-1.3-501, and 18-1.3-503, respectively, for violation of the provisions of this section shall be mandatory, and the court shall

not grant probation or a suspended sentence, in whole or in part; except that the court may grant a suspended sentence if the court is sentencing a person to the youthful offender system pursuant to section 18-1.3-407. THE PROVISIONS OF THIS SECTION, HOWEVER, SHALL NOT APPLY TO SECTION (4.1) OF THIS STATUTE.

Delete 18-8-208(10):

~~(10) Any person held in a staff secure facility, as defined in section 19-1-103 (101.5), C.R.S., shall be deemed to be in custody or confinement for purposes of this section.~~

Amend 18-8-210.1 to provide:

Persons in custody or confinement - juvenile offenders.

For the purposes of this part 2, any reference to custody, confinement, charged with, held for, convicted of, a felony, misdemeanor, or petty offense shall be deemed to include a juvenile who is detained OR COMMITTED for the commission of an act which would constitute such a felony, misdemeanor, or petty offense if committed by an adult or who is the subject of a petition filed pursuant to article 2 of title 19, C.R.S., alleging the commission of such a delinquent act or a juvenile who has been adjudicated a juvenile delinquent as provided for in article 2 of title 19, C.R.S., for an act which would constitute a felony, misdemeanor, or petty offense if committed by an adult.

DISCUSSION

Adjudicated juveniles who are committed to the Division of Youth Corrections often turn 18 while in custody. There are times when such persons are placed outside a secure facility in a group home or similar placement. Under the current statute, when a person walks away from such a group home and does not return, that person may be charged with a class three felony even though that person has never been convicted of any underlying felony.

The purpose of these proposed changes is to eliminate that scenario and provide that a person in such a situation would still have criminal liability, but could only be convicted of a class three misdemeanor. This would avoid a situation where a young adult could be placed in the Department of Corrections for such an escape, but would have never been convicted of an underlying felony. The changes would also provide that the sentencing judge would have discretion to grant or deny probation since the recommended changes to section (9) eliminate the mandatory sentence requirement for the “walk-away” juvenile.

C.R.S. 18-8-208(4.1) would not make all escapes by an adjudicated person a misdemeanor. The statute would still provide that persons who escaped from the facilities listed in section (4.1) could suffer a felony conviction.

It is recommended that C.R.S. 18-8-208(10) should be eliminated because it is contrary to the purpose of the recommendation.

References for citations in above statutes:

C.R.S. 19-1-103(101.5) "Staff secure facility" means a group facility or home at which each juvenile is continuously under staff supervision and at which all services, including but not limited to education and treatment are provided on site. A staff secure facility may or may not be a locked facility.

C.R.S. 18-8-208 Escapes