



Colorado Commission on Criminal & Juvenile Justice

FY2021 RECOMMENDATION/FY21-SR01 Revise Misdemeanor Sentencing and Offenses [STATUTORY]

Status: Implementation Complete

Actions/Updates

2022 UPDATE (JUNE)

During the FY 2022 Legislative Session, House Bill 22-1229 (Concerning adopting clean-up provisions to Senate Bill 2021-271 which enacted the 2021 recommendations of the Colorado Commission on Criminal and Juvenile Justice) was passed to clean up elements of the bill derived from this recommendation. The original bill is described below in the 2021 UPDATE (JULY). The "clean-up" bill (HB22-1229) was passed by the General Assembly 4/4/2022 and was signed by the Governor 4/7/2022.

2021 UPDATE (JULY)

During the FY 2021 Legislative Session, this recommendation was the source for Senate Bill 2021-271 (Concerning the adoption of the 2021 recommendations of the Colorado Criminal and Juvenile Justice Commission regarding sentencing for offenses). The bill was passed by the General Assembly 6/25/2021 and was signed by the Governor 7/6/2021.

With the passage and signing of this bill, this recommendation is considered complete.

2021 UPDATE (APRIL)

This recommendation was amended and re-approved with two sets of additional misdemeanor offenses (Title 39: Taxation & "Miscellaneous Offenses" identified by Legislative Council) on April 9, 2021.

2021 UPDATE (MARCH)

This recommendation, approved by the Commission on March 12, 2021, involves statutory revisions and is first applicable for action during the FY 2021 legislative session.

Description

Amends, appends, deletes and replaces several provisions of statute related to misdemeanor sentencing and offenses. This recommendation comprises three elements with an extensive array of associated statutory revisions and supporting documents:

- Change the misdemeanor sentencing scheme
- Align current misdemeanor crimes
- Reclassify felony offenses

[See the "Recommendation Text" for the complete recommendation and appendix.]

Agencies Responsible

Colorado General Assembly, Courts and Jails

Discussion

This recommendation is in response to the request by the Governor in the 2020 Biennial Letter to the Commission.[Footnote 1] The Governor directed the Commission, in part, to recognize the finite resource of available beds in DOC prisons, as well as the administration's effort to eliminate private prison capacity, to develop a guideline approach to structuring dispositions, to ensure statewide consistency in the application of sentencing guidelines that mitigate the effects of individual discretion by system actors, and to determine the appropriate degree of sentence determinacy and where to strike a balance between "truth in sentencing" and ensuring that there are incentives for success throughout an offender's sentence. The Governor emphasized that some of the work be completed to allow consideration by the General Assembly during the 2021 legislative session.

With the above in mind, the Commission seated the Sentencing Reform Task Force, which subsequently formed several working groups, including the Sentence Structure Working Group. This "Structure Working Group" prioritized the analysis of all misdemeanor and petty level offenses in Colorado with a plan to submit a recommendation for those crimes to the Commission in early 2021. The misdemeanor sentencing ranges must be established in order to determine whether a criminal offense is a felony or a misdemeanor. Therefore, the Structure Working Group began its investigation and analysis with misdemeanor offenses in order to develop a foundation for the subsequent work on felony offenses, which will be addressed subsequently during the summer and fall of 2021.

In addition to the goals summarized above, in its review of crimes, the Structure Working Group sought to balance rehabilitation and punishment, simplify crimes and sentencing ranges, adjust sentence ranges to more consistent and reasonable ranges, eliminate repetitive and unnecessary crimes and re-classify crimes as needed.

Footnotes

[1] The "Biennial Letter" is pursuant to House Bill 2018 - 1287; see also, §16-11.3-103(7), C.R.S. Statute requires that in even-numbered years the Commission request a letter from the Governor regarding topics of study. The Governor is encouraged to consult with the Chief Justice of the Colorado Supreme Court and the Majority and Minority Leaders of the Colorado House of Representatives and the Senate. The first of these letters was received June 24, 2020 and encouraged the Commission to study, discuss, and return recommendations to the Governor on a variety of sentencing-related topics.