



FY2023 RECOMMENDATION/FY23-SR02 Amend and Append Motor Vehicle Theft Provisions [Statutory]

Status: Implementation Complete

Actions/Updates

2023 UPDATE (JUNE)

During the FY 2023 Legislative Session, this recommendation was included in Senate Bill 2023-097 (Concerning the adoption of the 2023 recommendations of the Colorado Commission on Criminal and Juvenile Justice regarding motor vehicle offenses committed by a person who is not the owner of the motor vehicle). The bill was passed by the General Assembly 5/8/2023 and was signed by the Governor 6/2/2023.

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

2023 UPDATE (JANUARY)

This recommendation, approved by the Commission on January 27, 2023, involves statutory revisions and is first applicable for action during the FY 2023 legislative session.

Description

Amends, appends, deletes and replaces several provisions of statute related to motor vehicle theft. The elements for motor vehicle theft in the first degree and second degree are changed and motor vehicle theft in the third degree is created. The penalties for motor vehicle theft are no longer based on the value of the vehicle or vehicles stolen. Motor vehicle theft in the first degree is a class 3 felony, motor vehicle theft in the second degree is a class 4 felony, and motor vehicle theft in the third degree is a class 5 felony. The recommendation creates the offense "unauthorized use of a motor vehicle" and makes it a class 1 misdemeanor, or a class 5 felony for a second or subsequent offense. These revisions comprise changes to the following elements of statute: §18-4-409, §18-4-409.5, §18-17-103, §19-1-304 and §42-2-202, C.R.S. [See the "Recommendation Text" for the Proposed Statutory Language.]

Agencies Responsible

General Assembly

Discussion

There has not been a comprehensive review of sentencing laws in Colorado since 1985. Over the ensuing decades, Colorado's sentencing statutes became inconsistent and misaligned. In his June 2020 Biennial Letter, [FOOTNOTE 1] Governor Polis requested a comprehensive review of our

sentencing laws to ensure that our sentencing scheme is rational, just, equitable, and consistent with a data-driven analysis.

The Task Force has already conducted a thorough examination of Colorado's misdemeanor statutes, reviewing approximately 1,000 criminal offenses and conducting a comparative state-by-state review of misdemeanor sentencing ranges, which revealed that Colorado's misdemeanor sentencing range was high compared with nearly every other state.

In 2021, the Sentencing Reform Task Force helped produce Senate Bill 2021-271, a comprehensive overhaul of Colorado's misdemeanor sentencing laws that goes into effect March 2022. With overwhelming and bipartisan support, this bill was a positive step forward in sentencing reform. It adjusted the sentencing ranges for misdemeanors, eliminated redundant offenses, and reclassified some offenses. To build more certainty into the system, SB21-271 also required all county jails utilize a standard, consistent measure for determining time served and eliminate the inconsistencies that varied by county.

The Sentencing Reform Task Force is now reviewing felonies. The Sentence Structure Working Group is recommending changes to the Aggravated Motor Vehicle Theft statutes.

Auto thefts are a significant problem. Colorado leads the nation in auto thefts with an 86% statewide increase from 2019 to 2021. From 2019 to 2021, increases include a 170% increase in Broomfield, 250% in Grand County, and 60% in Boulder County. In the first quarter of 2022, Denver (#2), Aurora (#3), Westminster (#8), and Pueblo (#9) ranked in the top 10 nationwide for auto theft rates. These four cities combined accounted for 53.3% of the vehicles stolen statewide in the first quarter of 2022.

Many factors drive auto thefts, including but not limited to, financial stress, substance abuse, mental health disorders, lack of behavioral health treatment, homelessness, a desire to commit other crimes with and/or profit from stolen cars, crimes of opportunity with unlocked car doors and open garages, low arrest clearance rates, and minimal consequences.

In his 2022 Biennial Letter to the Commission, Governor Polis directed, in part, "...the Commission examine changes to auto theft sentencing, so that the repeat offenders and the most egregious perpetrators cannot easily return to communities to further inflict harm on the people of Colorado. Auto theft is a devastating property crime for those affected, who often lose their only way to get to work or get to the store. In addition, it is frequently a precursor crime that is often used in the furtherance of violence and other crimes. Enhancing the penalties associated with auto theft, regardless of the value of the vehicle stolen, has the potential to make us safer and improve the quality of life in Colorado.

"The Commission should especially revisit the criminal classification of auto theft as it relates to the monetary value of a stolen vehicle. The Commission should also examine updating the language to elevate the severity of the crime based on the number of prior offenses, specifically targeting prolific auto thieves. This is a top priority of mine, and even if the Commission does not come forward with recommendations this year, I will look to work with the legislature to enact reforms in this area in the upcoming session."

With this mandate, the Sentencing Reform Task Force reviewed data related to auto thefts from 2018 – 2022. The Task Force had previously voiced strong support for removing the value thresholds for auto thefts. This recommendation builds off that foundation. The Sentence Structure Working Group worked with multiple stakeholders to gather feedback on the Motor Vehicle Theft proposal. Through the work of the Sentence Structure Working Group, there is strong consensus for sentencing reform that would remove the value thresholds, change the elements to allow for more effective prosecutions (without raising the level of penalty), narrowing the aggravators, and create a new misdemeanor offense.

Footnotes

[FOOTNOTE 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. The second Biennial Letter was received September 15, 2022, which included additional sentencing issues along with other criminal justice concerns for study.