



FY2023 RECOMMENDATION/FY23-SR03 Reclassify Selected Felony Crimes [Statutory]

Status: Implementation Complete

Actions/Updates

2023 UPDATE (JUNE)

During the FY 2023 Legislative Session, this recommendation was included in House Bill 2023-1293 (Concerning the adoption of the 2023 recommendations of the Colorado Commission on Criminal and Juvenile Justice regarding felony sentencing). The bill was passed by the General Assembly 5/4/2023 and was signed by the Governor 6/1/2023.

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

This recommendation amends, appends, deletes and replaces multiple provisions of Colorado criminal statutes related to selected General Felonies, Enhanced Felonies, the re-classification or removal of felonies, and the elimination of specific aggravators for “second and subsequent offense or repeat offender.” This recommendation includes three basic concepts and the associated statutory revisions:

- 1). Amend and “right-size” felony offenses so that the classification of the offense is balanced and properly aligned with the level of seriousness of the prohibited behavior.
- 2). Eliminate “second and subsequent” increased felony classifications as necessary, given the wide ranges available in the current sentencing scheme, excluding certain criminal offenses where the classification of the crime should be increased when criminal behavior is repeated.
- 3). Amend the language defining felony offenses when the current statutory language does not properly capture the proper mental state or actions that should be required for commission of that offense.

[See the "Recommendation Text" for the Proposed Statutory Language.]

Agencies Responsible

General Assembly

Discussion

This recommendation is in response to the request by the Governor to the Commission in both the 2020 Biennial Letter and the 2022 Biennial Letter. [FOOTNOTE1] The Sentence Structure Working Group completed its misdemeanor sentencing and offense recommendations in 2021. The legislation was passed in 2021 (Senate Bill 2021-271), followed by a clean-up bill in 2022 (House Bill 2022-1229). In 2021, the Working Group then commenced its felony work by engaging in a crime severity analysis to ensure that current felony offenses are adequately classified based on the seriousness of the crime. The work required an examination of each felony offense and its elements – including the act to commit the offense and the requisite culpable mental state.

The proper alignment of felony offenses is the foundational work of sentencing reform. The recalibration of certain crimes was necessary to secure this foundation. The recommendation to reclassify the felonies included herein reflects this foundation. Some offenses are reclassified, others are re-structured, and some language is eliminated as unnecessary, given the current implementation of Colorado’s sentencing laws.

While additional work is necessary to address “consistency” and “clarity” in sentencing, this recommendation, along with others from the Sentence Structure Working Group and Sentencing Reform Task Force, represents a thoughtful and required first step in re-shaping the felony sentencing scheme, as directed by the Governor and per the mandate of the Colorado Commission on Criminal and Juvenile Justice.

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 that require analysis and action.