

**Community Corrections Task Force
MINUTES**

February 6, 2023 / 10:30AM-12:00PM
Virtual Meeting

ATTENDEES

TASK FORCE MEMBERS

Glenn Tapia, *Task Force Chair*, Division of Probation Services
Tim Hand, *Task Force Vice-Chair*, Larimer County Community Corrections
Doug Carrigan, Advantage Treatment Centers
John Draxler, Probation Services/ 13th Judicial District (JD)
James Karbach, DA. Office/20th JD
Ken Kupfner, DA Office/ 20th JD
Chris Meeks, Denver Community Corrections Board
Katie Ruske, Office of Community Corrections/ Division of Criminal Justice
Mark Wester, ComCor Inc.

ABSENT

David Coleman, Second Chance Center
Kristiana Huitron, Voces Unidas for Justice
Todd Rowell, Sheriff's Office/ Mesa County

STAFF

Richard Stroker, CCJJ Consultant
Laurence Lucero, CCJJ Staff, Division of Criminal Justice
Jack Reed, Research Director, Division of Criminal Justice
Stephane Waisanen, CCJJ Staff, Division of Criminal Justice

GUEST

Dianne Tramutola-Lawson, Colorado CURE

<p>Issue/Topic Welcome <i>Glenn Tapia, Task Force Chair</i></p>	<p>Discussion Glenn Tapia, Task Force Chair, welcomed members and guests to the Community Corrections Task Force (CCTF) meeting. He reviewed the agenda and recapped the discussions from previous meetings.</p>
<p>Issue/Topic Recap: Group Discussion of Task Force Mandates <i>Glenn Tapia, Task Force Chair</i></p>	<p>Discussion Recap of previous discussions:</p> <ul style="list-style-type: none"> ○ Possibly set up a few pilot sites (3) ○ High risk/high need misdemeanants on probation would be population ○ Probationers at risk of revocation ○ Community Corrections regular beds ○ Voluntary participation ○ Amend the statute to allow the state to pay for the placement
<p>Issue/Topic Legal Study Group Report & Programmatic Study Group Report</p>	<p>Discussion The <i>Legal Study Group</i> members James Karbach and Ken Kupfner presented a PowerPoint on the legal issues and statutes that might require revision, reviewed potential models and identified potential issues. The presentation can be found on the Community Corrections Task Force page on the CCJJ website under the “Materials” tab at ccjj.colorado.gov/ccjj-cctf2022 and is appended below.</p> <p>Below are the highlights of the issues and discussion points:</p> <ul style="list-style-type: none"> ▪ Potential models for misdemeanors: <ul style="list-style-type: none"> ➤ Condition of Probation: Probation has the authority to supervise and handle complaints to revoke a probationer. ➤ Community Corrections (CommCor) operating work release or as an alternative to jail: Judge oversees and may have sheriff/jail component depending on contract. ➤ Create a Direct Sentence: CommCor facility has decision. Termination would equal remainder in jail. Leaving could be new charge and unauthorized absence. ▪ The law and procedural due process do not allow a court to add an incarceration component without due process, even if the defendant volunteers to participate in CommCor. ▪ Misdemeanants cannot be sent to residential CommCor longer than the maximum incarceration sentence. ▪ Placement in CommCor as a condition of probation: <ul style="list-style-type: none"> ➤ Currently allowed either as the initial sentence or upon a probation violation. ➤ For high risk drug offenders when a contract is entered into by local officials. ➤ There is an evaluation requirement used for intensive residential treatment that limits who can be placed. ➤ Requires local board approval.

<p>Issue/Topic Legal Study Group Report (continued)</p>	<ul style="list-style-type: none"> ➤ Defendant can refuse probation and go to jail. ➤ If the person fails, they go through the probation revocation process. ➤ If revoked, the judge can impose any legal sentence available. Often there will be some incarceration time available because of presentence confinement. <ul style="list-style-type: none"> ▪ CommCor as an alternative to jail. <ul style="list-style-type: none"> ➤ CRS 18-1.3-301(4)(a) allows for the courts and local criminal justice officials to enter into agreements with CommCor programs to supervise convicted offenders, or to accept for residential placement persons convicted of a misdemeanor as an alternative to jail. ➤ Allows for placement high risk drug offenders when a contract is entered into by local officials. ➤ There is an evaluation requirement that they need intensive residential treatment. ➤ Requires local board approval. ➤ Defendant can refuse probation and go to jail. ➤ Funding comes from the county. ▪ How would the models differ? <ul style="list-style-type: none"> ➤ More high need drug offenders who need residential treatment? ➤ More funding sources? ➤ More counties or district adopting this model? ➤ Research component?
<p>Programmatic Study Group Report</p>	<p>The <i>Programmatic Study Group</i> including Tim Hand, Mark Wester, Chris Meeks, and Doug Carrigan distributed a document including conceptual points for a pilot program. The highlights are below:</p> <p>The framework for funding misdemeanants in community corrections assumes the following:</p> <ul style="list-style-type: none"> ▪ The Office of Community Corrections (OCC) will be the state oversight agency for funding and compliance auditing. ▪ Statutory authority pursuant to 17-27-103, C.R.S., gives local community corrections boards the ability to establish community corrections programs with local government determining accept/reject criteria and program guidelines. ▪ <i>House Bill 2019-1263 (Concerning changing the penalty for certain violations pursuant to the "Uniform Controlled Substances Act of 2013")</i> that revised some drug felonies to drug misdemeanors has resulted in unintended consequences of placing high risk/high need individuals on misdemeanor probation. This has resulted in more homelessness, unemployment, continued drug use and criminal behavior. ▪ The MPP (Misdemeanor Pilot Program) will be a partnership between community corrections boards, programs, courts, and state probation departments.

<p>Issue/Topic Programmatic Study Group Report (continued)</p>	<ul style="list-style-type: none"> ▪ Target population shall be high risk / high need individuals on misdemeanor supervision who have habitually failed to comply with the terms and conditions of their probation requirements. ▪ The MPP is a voluntary program where the probationer agrees to follow established rules and program expectations. Failure to participate in programming and/or violations of rules could result in a rejection after acceptance by either the program or the community corrections board. ▪ Consequences of failing to successfully complete the MPP will be decided by the probation department and/or the courts. ▪ All subsistence fees (rent) will be waived while a probationer is participating in the MPP. ▪ MPP capacity will be determined based on available bed space, staffing, and what is in the best needs of the community. ▪ All walkaways (unauthorized absence) are treated as a technical abscond violation and not a new crime. <p>The MPPs will offer a variety of services which will include, but are not limited to: Stabilization, employment, case planning, Cognitive & Dialectical Behavioral Therapy, budgeting and finance, veteran services, parenting, breathalyzer and urinalysis testing, medication management, accountability, and global positioning system (GPS) monitoring.</p> <p>Referrals to Community Corrections Boards and programs:</p> <ul style="list-style-type: none"> ▪ Out of county referrals are prohibited. ▪ All referrals shall include a high risk/need level using the Level of Supervision Inventory and/or another validated assessment tool approved by the OCC. ▪ All MPP referrals are initiated by the local probation department and sent directly to the community corrections board and program for screening to accept/reject. <p>Length of Stay:</p> <ul style="list-style-type: none"> ▪ A modified BSMART level system (1-4) will be created by a collaborative team (probation and program) and approved by the local community corrections board and OCC. ▪ No person shall be on MPP for more than 120 consecutive days. <p>Other areas of discussion:</p> <ul style="list-style-type: none"> ▪ MPP Data collection ▪ Stabilization services for individuals completing 90 days of Intensive Residential Treatment (outside the scope of the Task Force). ▪ 16-11.3-103.3(1)(e), C.R.S. – Access services at residential and nonresidential community corrections programs. ▪ Including base-rate and subsistence fees, what are additional costs for intensive case management services? <p>DISCUSSION</p> <p>Katie Ruske reported that, as of Fiscal Year 2022, 16 community corrections programs offered residential services to probation clients. Most probationers</p>
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<p style="text-align: center;">Issue/Topic DISCUSSION: Legal Study Group Report & Programmatic Study Group Report</p>	<p>are in Intensive Residential Programs (IRT). Of the 632 condition of probation cases, 172 were misdemeanants. <i>(Note: the data represents the number of cases, not individuals)</i>. Large programs have reported significant waitlists, an average of 6 months. Katie believed the targeted population needs structure and stability more than a higher level of inpatient treatment.</p> <p>Ken Hupfner explained that a condition of probation model would require a significant statutory rewrite to expand the conditions of probation to regular community corrections beds and add an enforcement component when individuals leave the facility unauthorized or escape. Sanctions are already in place in work release programs when individuals do not comply or escape. Ken suggested developing a recommendation to make funding available for the jurisdictions to enter a contract to fund beds for misdemeanants.</p> <p>James Karbach suggested defining a limit of beds as he expressed concern about the displacement of felony offenders for misdemeanants. James recalled the CCJJ Sentencing Reform Task Force recently revised the Escape statutes and recommended a conversation with this group should an enforcement component, such as escape, be added to a condition of probation model for misdemeanants. Finally, he asked how would high-risk/high-need be defined.</p> <p>Richard Stroker recapped the goal of the group and discussion points:</p> <ul style="list-style-type: none"> • The mission of the Task Force is to find a non-punitive option to help people and explore the use of community corrections beds for misdemeanants. • C.R.S. 18-1.3-301(4)(a) authorize courts and local criminal justice officials to enter into agreements with Commcor programs to supervise persons convicted of misdemeanor offenses as an alternative sentence to a county jail sentence. • Funding a pilot project in which the state offers funds to jurisdictions to expand the number of beds to serve misdemeanants. C.R.S. 18-1.3-301(4)(b) states that community corrections programs may receive funds from the correctional treatment cash fund, local funding, public or private grants, or offender fees. • Other remaining topics: <ul style="list-style-type: none"> ▪ Misdemeanants cannot be sent to residential CommCor longer than the maximum incarceration. Will there be any time left in their sentence to allow placement? Will people not have an interest in this model because they have a short remaining sentence? ▪ What are the consequences for unauthorized absence and escape? ▪ How to define eligibility for high-risk/high-need placements? Is this the right population? ▪ Would the condition of probation model displace felony offenders? ▪ Would this make the waitlist unattainable? ▪ Would these models have an impact on their behavior? ▪ Length of the pilot program and limit/cap of misdemeanor beds? <p>Richard suggested pilot programs include an evaluation component and answer</p>
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<p style="text-align: center;">Issue/Topic DISCUSSION: Legal Study Group Report & Programmatic Study Group Report</p>	<p>the remaining questions. He recommended developing a proposal, including expectations and goals of what the pilot programs should address and asking for funding.</p> <p>John Draxler discussed the targeted population is people who want stability and to receive services that probation cannot provide.</p> <p>Glenn reiterated the system lacks a solution for those who need stability. The group established the type of crime they committed has little correlation with their needs.</p> <p>James clarified the legal authority in the following statutes:</p> <ul style="list-style-type: none"> - 18-1.3-301(4)(a), C.R.S., allows for an alternative sentence to county jails, such as work release but does not allow placement as a condition of probation. - 18-1.3-301(4)(b), C.R.S., allows for the conditions of probation for individuals tested for residential treatment. This statute would require an amendment to expand the population, making funds available for counties to enter a contract and serve this population. <p>Katie expressed hesitation to support a model where state funding is used for a model offering an alternative to sentencing, but does support a condition of probation model. Katie added the funding method would be to open grant opportunities for counties to apply.</p> <p>Tim Hand discussed how the passage of <i>House Bill 2019-1263</i> resulted in the unintended consequence of placing high-risk/high-need individuals on misdemeanor probation and resulted in homelessness, unemployment, continued drug use, and criminal behavior. He suggested targeting such a misdemeanant population and extending stability services after an Intensive Residential Treatment Program (IRT) in community corrections. He also suggested adding funding for those who are completing an IRT program and need stabilization.</p> <p>Mark Wester suggested a non-residential option which would gradually escalate the level of care as described below:</p> <ul style="list-style-type: none"> - Intervention level 1: Experiment with utilizing electronic monitoring for misdemeanants with weekly check-ins and intensive case management. - Intervention level 2: Electronic monitoring and daily check-ins, random urinalysis, and intensive case management. - Intervention level 3: Intensive Day treatment with daily check-ins, random urinalysis, intensive case management, and group and individual therapy. - Intervention level 4: Residential placement. Intensive case management and group and individual therapy. <p>A non-residential model would help people in need of stabilization on probation, add a level of supervision, and provide a gradual way of responding to client needs. This option would eliminate the concerns about denying beds to felons and increase service for misdemeanor clients who need stabilization.</p>
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<p>Issue/Topic DISCUSSION: Legal Study Group Report & Programmatic Study Group Report</p>	<p>James confirmed statutes could be amended to include a “step-down” component from an IRT program to a non-residential intensive supervision within the sentencing imposed. A “step-up” option for clients currently in IRT programs would require going through a revocation process. This option would be legally possible for those probationers who are not in IRT programs.</p> <p>For residential placement, statutes could be amended for people that test out for needing residential care, and for clients assessed for placements in IRT programs (or currently in IRT programs) to step down to regular residential CommCor within the timeframe of their sentence.</p> <p>Glenn suggested a policy recommendation for the Division of Criminal Justice to reduce the lengths of stay in the IRT programs back to 45 days. Research suggests there is little difference in outcomes between the two lengths of stay. The reduced 45 days could serve for stabilization services.</p> <p>Richard summarized the discussion today to develop two recommendations to request funding for:</p> <ul style="list-style-type: none"> ▪ Residential placements-Use of COMCOR beds, IRT, stay post-IRT and update to the Correctional treatment board funding. ▪ Non-residential services with step-up and step-down options <p>Glenn Tapia, Katie Ruske, and CCJJ staff will meet before the next meeting to develop an outline of a recommendation, including the concepts discussed today.</p>
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<p>Issue/Topic Public Comment</p>	<p>Discussion No public comment was offered.</p>
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<p>Issue/Topic Next Steps & Adjourn <i>Glenn Tapia, Task Force Chair</i> <i>Richard Stroker, CCJJ Consultant</i></p>	<p>Discussion Glenn asked whether there were additional questions. With no additional comments offered, he thanked participants and guests and adjourned the meeting.</p>
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Next Meeting

Monday, March 6, 2023 / 10:30 am-12:00 pm

Details of the next meeting will be forwarded to the group and posted on the CCJJ web and calendar (ccjj.colorado.gov/ccjj-meetings and ccjj.colorado.gov/ccjj-calendar).



COLORADO

**Commission on Criminal
& Juvenile Justice**

Department of Public Safety

REGARDING LEGAL AUTHORITY & SENTENCING

Considerations for Serving Misdemeanants in Community Corrections

Presentation to the Community Corrections Task Force

James Karbach, Office of the State Public Defender

Ken Kupfner, DA Office/ 20th Judicial District

February 6, 2023

HOW WE GOT HERE

- **December meeting**

General agreement by those present in concept to run pilot in 3 counties:

- Use 1 large, 1 medium, and 1 small rural county
- Use an RFP or competitive bid process
- Take high risk, high need offenders
 - Use probation assessment
- Use a condition of probation model
- Let the time in residential be dictated by statute
- Make sure local boards can decide on who is accepted
- Have some component of voluntariness so people are ready
- Study it because we cannot answer how it will affect recidivism or outcome
- Plan was to discuss funding and what should be in a report and have draft report for February

HOW WE GOT HERE

- **January meeting**
 - Ken & James asking questions about the legal logistics.
 - Logistical concepts of the how it works legally not yet discussed
 - Voluntariness may have gotten confused:
 - Concern expressed people cannot volunteer to go to comm corr to avoid revocation. This may not ever have been contemplated, although it is likely illegal under the ex post facto clause
 - Concern expressed that making sentencing options different in different counties may have legal issues.
 - Confusion arises about how this is different that current laws
 - Part of our charge is what statutes have to change and that was not figured out
- Group suggests Ken and James present on legal issues and statutes that might need to change and try to review any different models and problems.

POTENTIAL MODELS FOR MISDEMEANORS

▶ Condition of Probation Model

- ▶ Probation ultimately has authority to supervise and handle complaints to revoke

▶ Community Corrections operating work release or alternative sentencing

- ▶ Judge oversees and may have sheriff/jail component depending on contract

▶ Creating a Direct Sentence

- ▶ Community Corrections Facility has decisions. Termination equals remainder in jail.
- ▶ Leaving could be new charge and unauthorized absence.

▶ Some other idea we have not come up with

PRESENTENCE CONFINEMENT LAW

- ▶ Misdemeanor presentence confinement and felony presentence confinement are calculated using the same rules.
 - ▶ *People v. Carrillo*, 297 P.3d (Colo. App. 2013).
- ▶ Time spent in residential community corrections in direct placement are confinement and count as presentence confinement.
 - ▶ *People v. Hoecher*, 822 P.2d 8 (Colo. 1991); *People v. Saucedo*, 796 P.2d 11 (Colo. App. 1990).
- ▶ Time spent in work release counts as presentence confinement.
 - ▶ *People v. Widhalm*, 991 P.2d 291 (Colo. App. 1999). (“We are persuaded that the rationale of *Hoecher* is equally applicable to a sentence to the county jail with work release as it is to residential community corrections. In each instance, the liberty of a defendant is restricted to a degree substantially greater than that of a person on probation and that restriction on liberty is sufficient to entitle a defendant to presentence confinement credit in both instances.”)
- ▶ There is no difference in the rules or restraints on liberty for people in residential community corrections. It does not matter if they are transition DOC clients, direct sentence clients, or there on a condition of probation. Every day in residential community corrections counts as incarceration and presentence confinement.

Current misdemeanor sentencing options

▶ PROBATION:

▶ LENGTH OF PROBATION:

- ▶ Misdemeanor probation (for M1 or M2) may be up to **5 years**. C.R.S. §18-1.3-202(1)(a)
- ▶ DM1 probation may be up to **2 years**. C.R.S. § 18-1.3-501(d.5)(II)
- ▶ DM2 probation may be up to **1 year**. C.R.S. § 18-1.3-501(d.5)(III)

▶ LENGTH OF STRAIGHT JAIL THAT CAN BE INCLUDED AS A CONDITION:

- ▶ The aggregate length may not exceed **60 days**. C.R.S. §18-1.3-202(1)(a)

▶ LENGTH OF WORK OR EDUCATIONAL RELEASE AS CONDITION OF PROBATION (It's the same as straight jail max):

- ▶ The aggregate length may not exceed 2 years or the term to which he or she might be sentenced for the offense committed whichever is less. 18-1.3-207(1)
- ▶ What that means:
 - ▶ M1 Max is 364 days
 - ▶ DM1 – 3rd or sub. offense Max is 364 days C.R.S. § 18-1.3-501(d.5)(II)
 - ▶ DM2 – 3rd or sub offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(III)
 - ▶ DM1 – 1st or 2nd offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(II)
 - ▶ M2 Max is 120 days
 - ▶ DM2 – 1st or 2nd offense Max is 120 days C.R.S. § 18-1.3-501(d.5)(III)

* Note that the more time spent in jail prior to the case resolving or spent in jail, work release, or in a residential community correction placement as a condition of probation, the less available jail time for a violation of probation. See *Presentence Confinement Law slide coming up*.

Current misdemeanor sentencing options

▶ PLACEMENT IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION RIGHT NOW:

▶ Requires high need drug offender

- ▶ C.R.S. § 18-1.3-204(2.2) “When granting probation, the court may include as a condition of probation a requirement that the defendant participate in drug treatment. ***If the defendant’s assessed treatment need is for residential treatment, the court may make residential drug treatment as a condition of probation and may place the offender in a community corrections program that can provide the appropriate level of treatment*** subject to the provision of section 18-1.3-301(4).
- ▶ C.R.S. § 18-1.3-301(4)(b) “. . . condition of probation ***when assessed treatment need level indicate that residential substance abuse treatment is necessary and appropriate.***”

▶ Requires screening procedures and board acceptance

- ▶ C.R.S. § 18-1.3-301(1)(b) requires all placements, those as a condition of probation (including misdemeanors) and all felony direct sentences, go through the process in section 17-27-103(5) and section 17-27-104(3)
- ▶ C.R.S. § 17-27-103(5) and 17-27-104(3):
 - ▶ (1) Requires written acceptance criteria and screening procedures
 - ▶ (2) Mandates use of structured, researched, based decision making process that combines professional judgment and actuarial risk and needs assessment tools
 - ▶ (3) Requires the board and administrators of the community correction program cooperate to set the screening procedures
 - ▶ (4) Gives power to the administrator to accept or reject any offender

▶ Requires Contract

- ▶ C.R.S. § 18-1.3-301(4)(b) (“A district court, county court, and any other criminal justice official may enter into agreements with community corrections programs that provide residential substance abuse treatment for the placement and supervision of offenders as a term and condition of probation . . .”).

▶ Requires Funding

- ▶ C.R.S. § 18-1.3-301(4)(b) (“A community corrections program used pursuant to this subsection (4)(b) may receive funds from the correctional treatment cash fund, as well as local funding, public or private grants, or offender fees.”)

Current misdemeanor sentencing options

▶ PLACEMENT IN COMMUNITY CORRECTIONS AS A CONDITION OF PROBATION RIGHT NOW:

▶ When it can be imposed:

- ▶ As the initial sentence
- ▶ Upon a probation violation

▶ Max time in residential in community corrections that is allowed:

- ▶ M1 Max is 364 days
- ▶ DM1 – 3rd or sub. Offense Max is 364 days C.R.S. § 18-1.3-501(d.5)(II)
- ▶ DM2 – 3rd or sub offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(III)
- ▶ DM1 – 1st or 2nd offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(II)
- ▶ M2 Max is 120 days
- ▶ DM2 – 1st or 2nd offense Max is 120 days C.R.S. § 18-1.3-501(d.5)(III)

▶ What happens if a person fails:

- ▶ They go through the probation revocation process.
- ▶ If revoked the judge can impose any legal sentence available. Often there will be little incarceration time available because of presentence confinement.

Current misdemeanor sentencing options

▶ JAIL

▶ Max Sentences

- ▶ M1 Max is 364 days
- ▶ DM1 – 3rd or sub. offense Max is 364 days C.R.S. § 18-1.3-501(d.5)(II)
- ▶ DM2 – 3rd or sub offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(III)
- ▶ DM1 – 1st or 2nd offense Max is 180 days C.R.S. § 18-1.3-501(d.5)(II)
- ▶ M2 Max is 120 days
- ▶ DM2 – 1st or 2nd offense Max is 120 days C.R.S. § 18-1.3-501(d.5)(III)

▶ It can be straight jail

- ▶ Counties can offer alternative sentence run by the county (which means the sheriff) pursuant to C.R.S. § 18-1.3-106. if available in the county, the court can impose them:
 - ▶ Work release (including job search)
 - ▶ Education release
 - ▶ Sheriff run in home detention
 - ▶ Day reporting
 - ▶ Behavioral Health Treatment
 - ▶ Reentry programs

Current misdemeanor sentencing options

▶ COMMUNITY CORRECTION AS AN ALTERNATIVE TO JAIL:

▶ All it takes is a contract

- ▶ C.R.S. § 18-1.3-301(4)(a) District courts, county courts, and other local criminal justice officials may enter into agreements with community corrections programs which include the use of such programs to supervise offenders awaiting trial for felony or misdemeanor offenses, offenders convicted of misdemeanors, or offenders under deferred judgments, or to accept for residential placement person convicted of misdemeanor as an alternative

▶ Funding

- ▶ Presumably comes from the county. They are required to fund to the jail as the sheriff has responsibility under C.R.S. § 17-26-101 et. seq.

▶ Example is the 20th Judicial District.

Current misdemeanor sentencing options

- ▶ QUICK NOTE ABOUT ALTERNATIVE SENTENCES OTHER THAN JAIL OR PROBATION
- ▶ There are host of these, depending on eligibility, including:
 - ▶ in home detention,
 - ▶ specialized restitution and community service,
 - ▶ restorative justice
 - ▶ suspended sentences with neither jail or probation
 - ▶ Fine only
- ▶ NOT really relevant to our current discussions because this often involve mitigated case or low risk and low need offenders.

What we can't do

- ▶ We cannot have a sentence imposed by a judge and add an incarceration component without due process (even if the defendant volunteers). It violates the ex post facto clause and procedural due process.
- ▶ We cannot rewrite sentencing options to be different for three pilot counties. Potential sentences have to be the same in all counties for all offenses.
 - ▶ What we can do. Have authorized sentences be the same everywhere. But allow counties to choose if they are available.
 - ▶ This happens with work release right now. Everyone can have it. Some do and some don't
 - ▶ It happens with specialty courts, etc.
 - ▶ If there is some change needed in the law to enable what we want to do, we have to change it for everyone. If we pilot something, the pilot might make money available. But if a county wants to do this on their own for whatever we want, they have to be able to do it.
 - ▶ It also means we can't change the law for some places, then study, then decide to change it elsewhere. And that would be unprecedented.
- ▶ We cannot have misdemeanants in residential community corrections longer than the maximum incarceration.
 - ▶ For final sentence to incarceration that means minus presentence confinement
 - ▶ For probation, it is a little different. But there is no incentive for defendants
 - ▶ Example:
 - ▶ Person has DM1 1st offense (max is 180 days). Sits in jail 45 days to resolve case.
 - ▶ Can get probation with up to 180 days in residential comm corr. However after 135 days if revoked, will get credit time served.
 - ▶ If given residential placement through w/r contract can only get up to 135 days.

Direct sentences for misdemeanants

- ▶ This is not the model we are currently talking about.
- ▶ It is a model for felony offenders. When they violate they go to DOC without a revocation hearing. Some courts give resentencing hearings, some do resentencing on paper. Only time you have to have a hearing is if you increase past the suspended DOC sentence.
- ▶ There would be a way to do this for misdemeanants. I doubt we want to:
 - ▶ We would have to write a lot of new laws. The current statute are all heavily designed around DOC and felonies.
 - ▶ The incentives and consequences for leaving won't work well around misdemeanors.
 - ▶ It facially appears to be a move to offer a more punitive model rather than a more rehabilitative one
 - ▶ We would have a ton of logistics
 - ▶ It does not fit well into other CCJJ recommendations and legislation.

What are we proposing THAT IS DIFFERENT THAN Community Corrections as a condition of probation?

▶ **PLACEMENT AS A CONDITION OF PROBATION (see slide 5)**

- ▶ It already is allowed for high risk drug offenders when a contract is entered by local officials.
- ▶ Already has a evaluation requirement that they need residential treatment.
- ▶ Already requires board approval that can be adjusted locally.
- ▶ Defendants already can refuse probation and go to jail (which I think is the voluntary component).

▶ **What is it that we are proposing to do differently?**

- ▶ Is it to include more than high need drug offenders who need residential treatment?
- ▶ Is to include a more direct funding source through DCJ to have this paid like direct sentences?
- ▶ Is it just to get more counties and districts to do this?
- ▶ Is it to study what is happening with this population already?

▶ **What we decide will dictate if we have change statutes.** We may not have to.

What About Comm Corr as Alternative to JAIL?

- ▶ **CONTRACTS WITH COMMUNITY CORRECTIONS to run alternative sentencing (see slide 8)**
 - ▶ It already is allowed for high risk drug offenders when a contract is entered by local officials.
 - ▶ Already has a evaluation requirement that they need residential treatment.
 - ▶ Already requires board approval that can be adjusted locally.
 - ▶ Defendants already can refuse probation and go to jail (which I think is the voluntary component)
- ▶ **What is it that we are proposing to do differently?**
 - ▶ Is it to include more than high need drug offenders who need residential treatment?
 - ▶ Is to include a more direct funding source through DCJ?
 - ▶ Is it just to get more counties and districts to do this?
 - ▶ Is it to study what is happening with this population already?
- ▶ **If we shifted to this model what we decide will dictate if we have change statutes. We may not have to.**

QUESTIONS AND DISCUSSION