

Colorado Commission on Criminal and Juvenile Justice
Sentencing Reform Task Force

Sentence Progression Working Group
MINUTES

November 17, 2020 3:00PM-4:00PM
VIRTUAL MEETING

ATTENDEES

WORKING GROUP MEMBERS

Dean Williams, DOC, WG Leader
Joseph Archambault, Office of the State Public Defender
Valarie Finks, Crime Victim Compensation, 1st JD DA's Office
Rick Kornfeld, Defense Attorney
Andrew Matson, Colorado CURE
Greg Mauro, Denver Division of Community Corrections
Amber Pedersen, DOC
Catrina Weigel, 20th JD District Attorney's Office

STAFF

Kim English, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice

ABSENT

Bob Gardner, State Senate

GUEST

Aaron Greco, DOC

Issue/Topic	Discussion
<p>Welcome & Introductions <i>Dean Williams</i></p>	<p>Working Group Leader Dean Williams thanked members for participating in the meeting and proceeded with introductions. The group welcomed two new members: Catrina Weigel from the District Attorney’s Office in the 20th Judicial District, and Joseph Archambault from the Colorado State Public Defender’s Office.</p> <p>Dean reviewed the goals for the meeting as follows:</p> <ul style="list-style-type: none"> • Review of statutory changes <ul style="list-style-type: none"> - ISP-I - Home Detention - Electronic Monitoring - Other reentry statutes • Group discussion

Issue/Topic	Discussion
<p>Proposed Statutory Revisions ISP-I</p>	<p>Amber Pedersen presented potential statutory changes to Intensive Supervision Program-Inmate (ISP-I) and Home Detention statutes as follow:</p> <p>Proposed statutory changes in BOLD with...</p> <ul style="list-style-type: none"> - additions in CAPS/UNDERLINE, and - deletions in strikethrough.) <p><u>ISP-I</u></p> <p>C.R.S. 17-27.5-101. Authority to establish intensive supervision programs for parolees and community corrections offenders.</p> <p>(1)(a) The department shall have the authority to establish and directly operate an intensive supervision program for any offender not having more than one hundred eighty days remaining until such offender's parole eligibility date and for any offender who successfully completes a regimented inmate discipline program pursuant to article 27.7 of this title.</p> <p>NOTE ABOVE: Amber commented that 180 days to PED is the original criterion, but we could consider expanding this this to 12 or 18 months, or potentially discuss a multitiered approach.</p> <p><i>OPTION A</i></p> <p>(2) The department may place in an intensive supervision program authorized pursuant to subsection (1) of this section any offender <u>NOT HAVING MORE THAN ON HUNDRED EIGHTY DAYS REMAINING UNTIL SUCH OFFENDER’S PAROLE ELIGIBILITY DATE</u> who has been referred to a community corrections program pursuant to section 18-1.3-301(2)(b), C.R.S., and approved for placement in the program pursuant to section 17-27-103(5) or</p>

<p>Issue/Topic Proposed Statutory Revisions ISP-I (continued)</p>	<p>section 17-27-104(3) if the placement will not increase the overall vacancy rate as of June 30, 1995, for the community corrections program.</p> <p>OR</p> <p><i>OPTION B</i></p> <p>(2) The department may place in an intensive supervision program authorized pursuant to subsection (1) of this section any offender who has been referred to a community corrections program pursuant to section 18-1.3-301(2)(b), C.R.S., and approved for placement in the program pursuant to section 17-27-103(5) or section 17-27-104(3) if the placement will not increase the overall vacancy rate as of June 30, 1995, for the community corrections program.</p> <p>Amber commented that <i>Option A: Section (2)</i> yields very clear program eligibility consistent with (1)(a). It provides the most flexibility for placement for both those sentenced for violent and nonviolent crimes, as long as those criteria are reflected in (1)(a).</p> <p><i>Option B: Section (2)</i> retains the program requirements from CRS 18-1.3-301(2)(b), the criteria for placement in Community Corrections programs, which actually provides the director more discretion to place nonviolent individuals (16 months to PED) than the version above with the 180 days to PED requirement. It requires the director of the Department of Corrections to refer an individual, does not require that the local Community Corrections board/program accept him/her.</p> <p>However, <i>Option B: Section (2)</i> would require 180 days to PED for violent offenders, and 16 months for nonviolent offenders, because it references the other statute that defines those parameters.</p> <p>C.R.S. 17-27.5-102. Minimum standards and criteria for the operation of intensive supervision programs.</p> <p><i>OPTION A</i></p> <p>(3) An offender as defined in section 17-27-102 (6) is eligible for an intensive supervision program only upon the recommendation of the department if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date or upon a transfer from a community corrections residential program under article 27 of this title if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date and if the local community corrections board finds that the correctional needs of such offender will be better served by such supervision. The local community corrections board has the authority to accept, reject, or reject after acceptance the participation of any offender in each and every intensive supervision program under this article. In selecting offenders for transfer to an intensive supervision program, the department</p>
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<p>Issue/Topic Proposed Statutory Revisions ISP-I (continued)</p>	<p>and the local community corrections board shall consider, but shall not be limited to, the following factors:</p> <p>OR</p> <p><i>OPTION B</i></p> <p>(3) An offender as defined in section 17-27-102 (6) is eligible for an intensive supervision program only upon the recommendation of the department if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date or upon a transfer from a community corrections residential program under article 27 of this title if such offender has not more than one hundred eighty days remaining until such offender's parole eligibility date and if the local community corrections board finds that the correctional needs of such offender will be better served by such supervision. The EACH local community corrections board has the authority to accept, reject, or reject after acceptance the participation will be notified by the department when of any offender in each and every IS PLACED IN AN intensive supervision program under this article. In selecting offenders for transfer to an intensive supervision program, the department and the local community corrections board shall consider, but shall not be limited to, the following factors:</p> <p style="padding-left: 40px;">Amber commented that <i>Option A: Section (3)</i> limits DOC's discretion over the program only as it applies to inmates transferring from community corrections to ISP-I.</p> <p style="padding-left: 40px;"><i>Option A: Section (3)</i> also requires the most change to get to the goal of increased flexibility. There is no way around the fact that a substantial change needs to be made to this subsection.</p> <p style="padding-left: 40px;"><i>Option B: Section (3)</i> converts the community corrections boards authority to supervise placement in ISP-I into a notice requirement that falls on DOC. This option requires less revision to the statute than <i>Option A Section (3)</i>. Consider CRS 18-1.3-301(2)(a)(II) to define the contents of the notification.</p>
<p>Issue/Topic Proposed Statutory Revisions Home detention, electronic monitoring, other re-entry statutes</p>	<p><u>Home Detention</u></p> <p>17-27.8-105. Home detention program - operated by the department of corrections for offenders who are paroled.</p> <p>The department of corrections is hereby authorized to develop, administer, and operate a home detention program or to contract with the division of criminal justice of the department of public safety pursuant to section 17-27.8-103 for a home detention program. which</p> <p>(1) THE HOME DETENTION PROGRAM DEVELOPED PURSUANT TO THIS SECTION may be utilized by the state board of parole for an offender as a condition of parole or modified parole.</p>

<p style="text-align: center;">Issue/Topic</p> <p>Proposed Statutory Revisions Home detention, electronic monitoring, other re-entry statutes (continued)</p>	<p>(2) THE DEPARTMENT OF CORRECTIONS SHALL ALSO BE AUTHORIZED TO REFER FOR PLACEMENT TO A HOME DETENTION PROGRAM OPERATED PURSUANT TO THIS SECTION ANY OFFENDER NOT HAVING MORE THAN ONE HUNDRED EIGHTY DAYS REMAINING UNTIL SUCH OFFENDER’S PAROLE ELIGIBILITY DATE.</p> <p style="padding-left: 40px;">Amber commented that this change would allow home detention for parolees or inmates within 180 days of PED. This timeframe mirrors the framework assumed for the ISP-I statute.</p> <p>(3) ANY HOME DETENTION PROGRAM DEVELOPED PURSUANT TO THIS SECTION SHALL INCLUDE EACH OF THE FOLLOWING COMPONENTS:</p> <p style="padding-left: 40px;">Amber added that the following requirements are imported from CRS 17-27.8-104 and can be included to provide clarity as to the structure of the program.</p> <p>(A) SUPERVISION OF THE OFFENDER BY PERSONAL MONITORING BY A PAROLE OFFICER OR HOME DETENTION OFFICER EMPLOYED BY THE DEPARTMENT OF CORRECTIONS;</p> <p>(B) SUPERVISION OF THE OFFENDER THROUGH MONITORING BY ELECTRONIC DEVICES WHICH ARE CAPABLE OF DETECTING AND REPORTING THE OFFENDER’S PRESENCE OR ABSENCE AT SUCH OFFENDER’S APPROVED RESIDENCE, PLACE OF EMPLOYMENT, OR OTHER COURT-APPROVED ACTIVITY; AND</p> <p>(C) ACCESS FOR THE OFFENDER TO ATTEND ANY COURT-ORDERED COUNSELING, SUBSTANCE ABUSE TREATMENT, VOCATIONAL REHABILITATION OR TRAINING, OR EDUCATION.</p> <p>DISCUSSION The group primarily discussed the ISP-I program; highlights of the discussion are below.</p> <ul style="list-style-type: none"> • The intent of the statutory changes is to provide more flexibility and opportunities for people who are within 180 of their PED and increase the utilization of ISP-I. The main issue is that local community corrections boards have the exclusive authority to accept individuals in their communities even when community corrections housing and reentry services are not used. Potential employers regularly reach out to DOC to offer employment opportunities for individuals who are in the last portion of their DOC sentence but, often times, local community boards object. • One of the challenges of ISP-I is the lack of defined criteria regarding who is appropriate for an ISP-I placement versus a placement in community corrections program.
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<p>Issue/Topic Proposed Statutory Revisions (continued)</p>	<ul style="list-style-type: none"> Local community corrections boards will take issue if their approval authority is removed and they should keep some discretion when an individual is placed in their community. Not everyone agreed that the current board requirement of approval is a barrier to the ISP-I program. Most of community corrections boards accept the idea of gradual transition, along with having input into who is coming into the community and when. It was agreed that if a person is referred to community corrections services, local boards should have the authority to approve them. The idea of requiring the input from local boards was questioned especially when community corrections resources are not being used. The objections by local boards are often related to the lack of resources in the community. For DOC, this would be an opportunity to develop criteria and incentives to for ISP-I when community corrections services are not being used. About 60% of individuals released from DOC do not participate in community corrections and yet the local boards have authority to approve or disapprove them. Confidence among community stakeholders in the ISP-I program has eroded over the years due to the lack of a clear strategy and defined eligibility criteria. The group agreed that a transparent process and clear strategy needs to be developed to identify who can be safely referred to ISP-I versus a half-way house.
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<p>Issue/Topic Public Comment</p>	<p>Public Comment</p> <p>Linda Summers suggested the group consider designing and creating a new environment including special housing for individuals who are about to be released from prison to facilitate reentry into community.</p>
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<p>Issue/Topic Membership, Next Steps & Adjourn</p> <p>ACTION Kim English will follow up on the request to add a county commissioner</p>	<p>Discussion</p> <p>Working Group members would like to add a county commissioner and Kim English will follow-up and update the group at the next meeting.</p> <p>The agenda for the next meeting:</p> <ul style="list-style-type: none"> - Continue discussion about statutory changes to ISP-I - Discuss statutory changes to home detention <p>The next Sentence Progression Working Group meeting is Tuesday, November 24 at 3pm.</p> <p>The meeting adjourned at 4:00pm</p>
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