



Final 2018 Legislation Update

May 11, 2018

CCJJ Recommendation	Bill / Sponsors	Status
<p>FY17-RE #01 Allow Orders of Collateral Relief after the time of sentencing. Update orders of collateral relief in statute to:</p> <ul style="list-style-type: none"> • Allow eligible individuals to request an order of collateral relief after the time of sentencing, • Eliminate duplicative statutory language regarding orders of collateral relief; and • Create an order of collateral relief in the Children’s Code. <p>Encourage the judiciary to develop a mechanism that will allow the identification of instances when orders of collateral relief are requested, granted, or denied.</p>	<p>HB18-1344 “Relief from collateral consequences of criminal actions”</p> <p>Representatives Weissman / Sias & Senators Coram / Moreno</p>	<p>Awaiting final action by the Governor</p> <p>Passed House 62-0 Passed Senate 35-0</p>
<p>FY17-RE #02 Prevent adverse private employment actions on the basis of non-conviction, sealed, and expunged records. Promotes community safety and economic growth by preventing adverse employment action on the basis of arrests that did not result in a conviction, or criminal justice records that have been sealed or expunged.</p>	<p>No bill</p> <p>Recommendation not introduced</p>	<p>Not introduced</p>
<p>FY17-RE #03 (Please see Substantive Changes section below) Revise statutory guidance on state licensure and employment. Promote community safety and economic growth by:</p> <ul style="list-style-type: none"> • Preventing consideration of arrests that did not result in a conviction, and convictions that have been pardoned, sealed, or expunged, in state licensure and employment decisions; • Empowering the Department of Regulatory Agencies to delist certain conditional licenses; • Collecting data; • Encouraging the elimination of mandatory collateral consequences; and • Incentivizing opportunity expansion by state contractors. 	<p>HB18-1418 “The use of criminal convictions in employment”</p> <p>Representative Weissman & Senators Coram, Kagan</p>	<p>Awaiting final action by the Governor</p> <p>Passed House 65-0 Passed Senate 35-0</p>
<p>FY17- RE #04 Promote housing opportunities for people with non-conviction, sealed, and expunged records. Promote community safety and economic growth by:</p> <ul style="list-style-type: none"> - Preventing adverse housing action on the basis of arrests that did not result in conviction, or criminal justice records that have been sealed or expunged. - Allowing prospective tenants denied housing due to a criminal history or credit record to obtain a copy of the record. - Correcting a statutory omission regarding landlords’ inquiry into sealed records. <p>Enacting protections for landlords in civil cases.</p>	<p>SB18-057 “Consequences of records with respect to housing”</p> <p>Senator Kagan</p>	<p>Postponed indefinitely in State, Veterans & Military Affairs</p>

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<p>FY17- RE #05 Provide statutory guidance on public housing decisions. Promote community safety and economic growth by: - Preventing public housing authorities from taking adverse action against individuals on the basis of arrests that did not result in a conviction, or convictions that have been pardoned, sealed or expunged. - Requiring public housing authorities to consider other convictions using the same criteria the state currently applies for licensure and employment decisions.</p>	<p>SB18-057 “Consequences of records with respect to housing” Senator Kagan</p>	<p>Postponed indefinitely in State, Veterans & Military Affairs</p>
<p>FY17-JCC #01 (Please see Substantive Changes section below) Create a plan to formally recognize and address the needs of crossover youth. Define <i>crossover youth</i> and <i>crossover plan</i> in statute and require each local Juvenile Services Planning Committee, established in C.R.S. 19-2-211, to devise a crossover plan for the identification and notification of cases involving crossover youth.</p> <p>FY17-JCC #02 Utilize existing funds for local crossover youth plans and services. Authorize the utilization of existing marijuana tax revenue distributed to Senate Bill 1991-94 entities to allow these funds to be used to support the development and implementation of local crossover youth plans and services.</p>	<p>SB18-154 “Requirement for a local juvenile services planning Committee to devise a plan to manage dually identified Crossover youth” Senator Fields & Representative Salazar</p>	<p>Signed by the Governor Passed Senate 31-3 Passed House 54-9</p>
<p>FY18-MH #01 (Please see Bill Details section below) Develop pre-file mental health diversion pilot program This recommendation proposes the development of pilot programs for pre-file mental health diversion in judicial districts where the option or resources for the option may be lacking. The pilot will: - Develop post-arrest, pre-file diversion programs specifically for individuals experiencing mental health disorders and who meet specific criteria and are determined able to benefit from diversion to treatment rather than being processed through the criminal justice system. - Create pre-file mental health diversion programs that utilize a stakeholder-created, reviewed, and approved model (See Appendix A.) In addition, local officials should promote the utilization of Adult Pretrial Diversion Programs and funding as created by §18-1.3-101, C.R.S.</p>	<p>SB18-249 “Establishing alternative programs in the criminal justice system to divert individuals with a mental health condition to community treatment” Senators Gardner/Lambert & Representatives Lee/Young</p>	<p>Awaiting final action by the Governor Passed Senate 35-0 Passed House 44-21</p>
<p>FY18-CCJJ #01 (Please see Substantive Changes section below) Continue the Colorado Commission on Criminal and Juvenile Justice The critical mission of the Commission – to study and make recommendations that ensure public safety, respect the rights of crime victims, and reduce recidivism, and that are evidence based, cost-effective, and sensitive to disproportionate minority overrepresentation – requires ongoing effort. The need for collaboration among multidisciplinary stakeholders and subject matter experts to study complex issues and recommend improvements in the administration of justice has not diminished. §16-11.3-105, C.R.S., should be amended to extend the Commission beyond the statutory termination date of June 30, 2018.</p>	<p>HB18-1287 “The extension of the repeal of the Colorado commission on criminal and juvenile justice” Representative Weissman & Senators Cooke/Kagan</p>	<p>Awaiting final action by the Governor Passed House 55-6* Passed Senate 34-0</p>
<p>* Everett, Humphrey, Leonard, Lewis, Saine, & Sandridge (4 excused)</p>		

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Substantive Changes:

This section outlines substantive changes to CCJJ recommendations that took place during the legislative process. All of these changes were approved by the CCJJ Legislative Committee and each corresponding bill maintained its official CCJJ “stamp of approval.”

SB 154 “Juvenile Planning Committee Crossover Youth Plans” (Fields/Salazar)

1. At the request of several county human services organization, the following changes were made: clarified that the plan must evaluate appropriate services as well as appropriate placement, specified that each county has the discretion to determine what data they share, and provided clarity on what kind of child welfare reports and referrals are included in the definition of dually identified cross over youth.

HB 1418 “Use of Criminal Convictions in Employment” (Weissman/Coram & Kagan)

1. The CCJJ recommendation included a section regarding incentivizing opportunity expansion by state contractors. HB 1418 did not include this provision as there was concern that it may bring opposition to an otherwise consensus recommendation.
2. To address concerns raised by DORA, HB 1418 was amended to permit agencies, when evaluating an applicant for licensure or employment, to take into account whether that person will be directly responsible for the care of individuals susceptible to abuse or mistreatment because of circumstances, including age, disability, frailty, mental health disorder, developmental disability, or ill health.
3. Also at the request of DORA, extends the effective date Section 2, which addresses data collection requirements of DORA, to November 1, 2018 so that the requirements go into effect for the next round of Sunsets and not the Sunset reviews currently being done by the Department.
4. Originally, the DORA data collection requirements included an analysis of whether it would be appropriation to change any mandatory collateral sanctions to discretionary disqualifications. This was also taken out of the bill as the request of CDAC.
5. To address concerns raised by DOR, HB 1418 was also amended to exempt DOR from the statute that disallows the fact that an individual has been convicted of a felony may not, in and of itself, prevent the person from applying and obtaining public employment or from applying and receiving a license. DOC and CDPS already have exemptions under this statute.
6. Also at the request of DOR, clarified that, in deciding whether to issue a license to an applicant who has been arrested or charged but never convicted, the conduct underlying the arrest may be considered.

HB 1287 “Reauthorize Commission Criminal and Juvenile Justice” (Weissman/Cooke & Kagan)

To get all stakeholders to neutral on the reauthorization of CCJJ, the following changes were made to the bill:

1. Extends the Commission for five years until 2023 and adds a Sunset Review provision under 2-3-1203.
2. Adds the following members to the Commission – a victim, a former offender, a non-profit organization that represents municipalities, and a victim’s advocate. Reduces at-large members from three to two.
3. Change DA appointment to the CDAC Executive Director or their appointee and an elected DA who is designated by CDAC.
4. Clarifies term limits but establishing that a person who has been appointed and subsequently reappointed to the Commission by the same Governor may not be appointed by the same Governor to serve in any other capacity on the Commission.

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5. Clarifies that the Commission must request a letter from the Governor in even-numbered years suggesting topics for the Commission to study. In preparing the letter, the Governor is encouraged to consult with the Chief Justice and Majority/Minority legislative leadership. The idea of such a letter was considered and unanimously approved by the CCJJ in February.

Bill Details:

SB 249 "Redirection Criminal Justice Behavioral Health" (Gardner & Lambert/Lee & Young)

- As introduced, SB 249 was modeled after the CCJJ recommendation FY18-MH01 Develop Pre-file Mental Health Diversion Pilot Programs; however, unlike the CCJJ recommendation, the bill required such diversion programs and applied it to behavioral health, not just mental health.
- CDAC took the lead on amending the bill to better reflect the CCJJ recommendation. As such, the bill was amended to encourage up to four pre-plea local-level mental health pilot programs in judicial districts that choose to participate. The pilot programs must follow model proposed in the CCJJ recommendation. The bill also creates the Mental Health Criminal Justice Diversion Grant Program in the State Court Administrator's Office that participating pilot sites may apply to for funding. \$750,000 is appropriated to the grant program FY 2018-19.

Additional Legislation with Mandate to CCJJ:

HB 1346 "Abuse of Youth Under 21 in Care of Institution" (Singer & Landgraf/Smallwood & Kefalas)

- As introduced, the bill added language to the crime of child abuse to include abuse of a youth who is younger than 21 years of age and being cared for by a facility. It also clarified that the definition of "institutional abuse" in the Colorado Children's Code includes an act or omission that threatens the life, health, or welfare of a person younger than 21 years of age who is under the continuing jurisdiction of the court.
- **CCJJ MANDATE: Some stakeholders were not supportive of the section of the bill pertaining to the crime of child abuse. As such, the bill was amended to direct the CCJJ to study whether existing criminal statutes address abuse of a child or youth in a facility and issue corresponding recommendation concerning any identified gaps in law that may need to be addressed. The report out is due on or before July 1, 2019.**
- Passed House 48-12. Passed Senate 35-0. Awaiting final action by the Governor.

Additional Legislation of Interest to CCJJ:

SB 269 "School Security Disbursement Program" (Neville & Moreno/Neville & Bridges)

- During the Long Bill debates, the legislature set aside \$30 million in the School Safety Resource Center Cash Fund for the purposes of school safety. SB 269 implements a program to distribute those funds.
- The bill creates the School Security Disbursement Program in the Department of Public Safety. A school district may apply for a disbursement and use the money for specified purposes including, but not limited to, building improvements to enhance security and training for school personnel. The bill specifies that priority must be given to applicants that commit to providing matching funds for the amount received.
- Passed Senate 35-0. Passed House 64-0. Awaiting final action by the Governor.

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HB 1413 “Create School Safety Grant Program” (Lee & Neville/Zenzinger)

- Creates the Enhance School Safety Incident Response Grant Program in the Division of Homeland Security and Emergency Management to provide funding for research, program development, and training to improve school safety incident response. The funding can be used by recipients to provide training, develop best practices and protocols, conduct research and development, and upgrade technology and infrastructure used for training related to school safety incident response. \$500,000 is appropriated to the grant program.
- Passed House 62-2. Passed Senate 34-0. Awaiting final action by the Governor.

HB 1436 “Extreme Risk Protection Orders” (Garnett & Wist/Court)

- Creates the ability for a family or household member or a law enforcement officer to petition the court for a temporary extreme risk protection order and outlines the requirements to secure such an order.
- Passed House 37-23. Postponed indefinitely in Senate State Affairs.

The list of CCJJ recommendations above includes those with suggestions for statutory modifications that were approved prior or during the FY 2018 Legislative session. The Commission also tracks the status of and promotes recommendations with statutory elements that have yet to receive attention in previous legislative sessions. The Commission also produces non-statutory, policy-oriented recommendations and monitors their implementation status.

All of the recommendations approved by the Commission may be found at, colorado.gov/ccjj/ccjj-recs.