



Colorado Commission on Criminal and Juvenile Justice

Criminal Justice Related Bills

May 10, 2019

See the Governor's Bill Tracker for the announcement of signed bills at, colorado.gov/governor/bill-tracker.

SENATE BILLS (Some last-minute amendments may not be reflected in the brief descriptions.)

- ***SB 007 Prevent Sexual Misconduct At Higher Ed Campuses (Sens. Pettersen/Winter & Reps. McLachlan/Buckner)***
 - The bill requires each institution of higher education to adopt, periodically review, and update a policy on sexual misconduct that meets minimum requirements, including reporting options, procedures for investigations and adjudications, and protections for involved persons. The policy shall be posted on websites and annually distributed and training must be provided on awareness and prevention of sexual misconduct, the policy, and resources available to discuss such misconduct. The department of higher education is to host biennial summits on sexual misconduct on institution campuses to facilitate communication, share information, and hear from experts. The bill identifies the membership of the planning committee for the summits. The planning committees are to report to specified committees of the general assembly on the summits. The bill creates a sexual misconduct advisory committee to make recommendations to the general assembly and institutions on sexual misconduct policies at institutions following the promulgation of new federal rules by the federal department of education and annually thereafter.
 - Passed – awaiting Governor's signature.
- ***SB 030 Remediating Improper Guilty Pleas (Sen. Gonzales & Rep. Tipper)***
 - The bill finds that some criminal defendants who, when they entered a guilty plea in connection with a deferred judgment, were not advised that there may be additional penalties that attach to the plea even if the plea is later withdrawn and the case is dismissed. These defendants did not knowingly, intelligently, and voluntarily enter the plea of guilty as required by law. The bill authorizes these persons to petition the court for an order vacating the guilty plea.
 - Passed – awaiting Governor's signature.
- ***SB 043 Increasing Number Of District Court Judges (Sens. Lee/Gardner & Reps. Herod/Carver)***
 - The bill adds fifteen additional district court judges across ten different judicial districts.
 - Passed – Signed by Governor.
- ***SB 049 Sexual Crime Statute of Limitation (Sen. Fields & Rep. Michaelson-Jenet)***
 - The bill makes the statute of limitations 3 years for failure to report child abuse when a mandatory reporter has reasonable cause to know or suspect that a child has been subjected to unlawful sexual behavior or observed the child being subjected to circumstances or conditions that would reasonably result in unlawful sexual behavior.
 - Passed – Signed by Governor.
- ***SB 064 Concerning Retention of Criminal Justice Programs Funding (Sen. Lee & Rep. Weissman)***
 - Currently money appropriated but unspent for the community-based reentry grant program, the crime victims grant program, the justice reinvestment crime prevention grant program, and the justice reinvestment crime prevention small business program (programs) reverts to the general fund at the end of the fiscal year. The bill creates cash funds for each of the programs so that money for the programs is appropriated into the cash funds and unspent money is available for spending in future years. Currently, the justice reinvestment crime prevention initiative is scheduled for repeal on September 1, 2020. The bill extends the repeal date to September 1, 2023.
 - Passed – awaiting Governor's signature.

- ***SB 071 Minor Sex Assault Hearsay (Sen. Fields & Rep. Roberts)***
 - The bill amends the statutory exception to the hearsay rule to admit an out-of-court statement made by a child if certain conditions are satisfied.
 - Passed – signed by Governor.

- ***SB 108 Juvenile Justice Reform (Sens. Lee/Gardner & Reps. Michaelson-Jenet/Soper)***
 - The bill establishes a committee on juvenile justice reform (committee) in the governor's office and establishes its membership. The bill adds duties to a working group under DYS on detention of juvenile offenders and alternative services to detention. The bill requires district attorney's offices to use the risk screening tools and the results of the tools in determining a juvenile's eligibility for diversion and need for services. It specifies grounds that may not be used to deny diversion and directs the division of criminal justice to collect data and report on juvenile diversion programs. The bill restricts removing a juvenile from the custody of a parent, unless the detention screening is conducted and specified findings are made, and directs that unless physical restriction is required, custody of the juvenile is given to kin or another person. It limits which juveniles may be placed in detention. In releasing a juvenile from detention, the bill requires the juvenile court to use the detention screening instrument. For juvenile probation, the bill requires the state court administrator to develop a statewide system of graduated responses and incentives to change a juvenile's behavior and address violations and to develop statewide standards for juvenile probation supervision and services and provide annual training on the standards. The bill makes conforming amendments. *[Derived from the Colorado: Improving Outcomes for Youth recommendations presented at the December 2018 Commission meeting.]*
 - Passed – awaiting Governor's signature.

- ***SB 136 Expand Division Youth Services Pilot Program (Sen. Lee & Rep. Gonzales-Gutierrez)***
 - The bill adds an additional pilot program to the one other existing pilot site to aid in the establishment of a division-wide therapeutic and rehabilitative culture (pilot program) in the division of youth services. The bill requires a second evaluation and report on the pilot program.
 - Passed – awaiting Governor's signature.

- ***SB 143 Parole Changes (Sens. Gonzales/Lee & Rep. Herod)***
 - Under current law, there are prison population measures that can be used when the vacancy rate drops below 2 percent. The bill changes the rate to 3 percent and adds a new measure. The new measure allows the department to submit a list of inmates who meet a specified eligibility criteria, have an approved parole plan, and have been assessed to be less than high risk to the parole board for a file review or hearing. The board must release certain inmates to parole within thirty days of the file review/hearing. Some may be temporarily tabled before release to parole, but any denial of release of eligible inmates requires a majority vote of the full board.
 - Passed – awaiting Governor's signature.

- ***SB 165 Increase Parole Board Membership (Sen. Rodriguez & Reps. Hansen/Ransom)***
 - Under existing law, the state parole board is comprised of 7 members. Two members have experience in law enforcement, and one has experience in offender management. The remaining 4 members must have experience in a relevant field. The bill increases the board's membership to 9 members. The 2 additional members must have experience in a relevant field.
 - Passed – awaiting Governor's signature.

- ***SB 182 Death Penalty Repeal (Sens. Williams/Gonzales/Bridges/Court/Garcia/Priola & Reps. Arndt/Benavidez)***
 - The bill repeals the death penalty in Colorado for offenses charged on or after July 1, 2019, and makes conforming amendments.
 - Failed on Second Reading in Senate.

- ***SB 185 Protections for Minor Human Trafficking Victims (Sen. Fields & Rep. Landgraf)***
 - The bill clarifies definitions in the "Colorado Children's Code" concerning victims of human trafficking of a minor for involuntary servitude and for sexual servitude. The bill creates immunity for a violation of a prostitution-related offense if probable cause exists to believe that a minor was a victim of either human trafficking of a minor for involuntary servitude or for sexual servitude. The bill establishes an affirmative defense for all criminal violations, except class 1 felonies, if a minor proves that he or she was:
 - A victim of human trafficking of a minor for involuntary servitude or sexual servitude; and
 - Forced or coerced into engaging in the criminal acts.
 - Passed – awaiting Governor's signature.
- ***SB 191 Prompt Pretrial Liberty And Fairness (Sens. Bridges/Marble & Reps. Herod/Gonzales-Gutierrez)***
 - The bill creates rights for defendants related to release on bond, including: a bond setting hearing held within 48 hours; under specific circumstances, allowing bond to be posted within 2 hours and limiting bond fees; under specific circumstances, releasing defendants within 4 hours of posting bond; and, if bond is met, releasing the defendant who may be unable to pay other costs or fees.
 - Passed – awaiting Governor's signature.
- ***SB 211 Mental Health Criminal Diversion Program (Sen. Moreno & Rep. Esgar)***
 - The bill extends the mental health criminal justice diversion pilot program and the mental health criminal justice grant program an additional year and removes the cap on the total of all grants awarded per year. The bill also requires the state court administrator to provide reports to the general assembly.
 - Passed – signed by Governor.
- ***SB 222 Individuals At Risk Of Institutionalization (Sens. Lee/Story & Reps. Esgar/Landgraf)***
 - The bill requires the department of health care policy and financing to develop measurable outcomes to monitor efforts to prevent Medicaid recipients from becoming involved in the criminal or juvenile justice system. The bill creates an advisory body to work with the department of human services, in collaboration with HCPF, to create a comprehensive proposal to strengthen and expand a community behavioral health safety net system; to define a high-intensity behavioral health treatment program, determine an adequate network of such services, and identify existing treatment programs and develop a plan to increase the number of treatment programs in the state; and to implement the comprehensive proposal and the funding model no later than January 1, 2024; and provide an annual report from January 1, 2022, until July 1, 2024, on the safety net system to the public through the annual SMART Act hearing.
 - Passed – awaiting Governor's signature.
- ***SB 223 Actions Related to Competency to Proceed (Sens. Lee/Gardner & Reps. Weissman/Landgraf)***
 - The bill makes revisions regarding a defendant's competency to proceed: a) Changes the timing of various matters; b) Clarifies where restoration services are to be provided; c) Expands the requirements for a competency evaluation report; and d) Clarifies when defendants are to be released following an evaluation or restoration services. The bill requires the department of human services to:
 - a) Develop an electronic system to track the status of defendants for whom competency to proceed has been raised; b) Convene a group of experts to create a placement guideline for use in determining where restoration services should be provided; and d) Partner with an institution of higher education to develop and provide training in competency evaluations. On and after January 1, 2020, except for certain certified or certification-eligible evaluators, competency evaluators are required to have attended training. District attorneys, public defenders, and alternate defense counsel are also to receive training on competency to proceed. The bill also provides that a competency evaluator is not liable for damages in any civil action for failure to warn or protect a specific person or persons against the violent behavior of a defendant being evaluated.
 - Passed – awaiting Governor's signature.

- ***SB 259 Use CSP II to House Inmates in an Emergency (Sens. Garcia/Hisey & Reps. Herod/Wilson)***
 - The bill allows CSP II to be used to house inmates when the state male prison vacant bed rate, excluding RTP treatment beds, remains below one percent vacancy for 2 consecutive months. Once the prison population surpasses one percent vacancy, the department of corrections (department) shall transfer any inmates housed in CSP II to an appropriate facility under the department's control within 30 calendar days. No more than 126 inmates may be housed at CSP II.
 - Passed – awaiting Governor's signature.

HOUSE BILLS (Some last-minute amendments may not be reflected in the brief descriptions.)

- ***HB 1025 Concerning the Timing of an Inquiry into a Job Applicant's Criminal History (Reps. Melton/Herod & Sens. Foote/Rodriguez).***
 - The bill prohibits inquiries regarding criminal history on a job application.
 - Passed – awaiting Governor's signature.
- ***HB 1030 Unlawful Electronic Sexual Communication (Reps. Soper/Roberts & Sens. Rankin/Zenzinger).***
 - The bill creates the crime of unlawful electronic sexual communication by those in a position of trust.
 - Passed – signed by Governor.
- ***HB 1051 Concerning Human Trafficking Prevention Training by the Department of Public Safety (Rep. Carver/McLachlan & Sen. Gardner/Jinal).***
 - The bill requires the division of criminal justice to provide human trafficking training to law enforcement agencies and entities that provide services to human trafficking victims.
 - Passed – awaiting Governor's signature.
- ***HB 1064 Victim Notification Criminal Proceedings (Reps. Sullivan/Baisley & Sens. Foote, Cooke)***
 - The bill eliminates requirements that victims must opt in to effect their rights in criminal proceedings involving their alleged offender or offender.
 - Passed – awaiting Governor's signature.
- ***HB 1073 CISC Grant Program (Rep. Benevidez & Sen. Fields)***
 - The bill creates the law enforcement, public safety, and criminal justice information sharing grant program (grant program) within the division of homeland security and emergency management (division) in the department of public safety. The grant program provides grants to assist local law enforcement agencies in gaining access to the information-sharing system created by the Colorado information sharing consortium (CISC). Grant recipients can use the money to pay for computer hardware, software, and programming costs necessary to connect to CISC's information-sharing systems.
 - Passed – awaiting Governor's signature.
- ***HB 1119 Disclosure of Internal Investigation Files (Rep. Coleman & Sen. Foote)***
 - The bill makes an internal investigation file (file) of a peace officer for in-uniform or on-duty conduct that involves a member of the public subject to an open records request. The bill requires some information to be redacted and allows other information to be redacted before complying with the open records request. The bill allows the custodian of the file to first provide a summary of the file to the requester and then allows the requester access to the file after the requester has reviewed the summary. Under the bill, a custodian of a file in which there is an ongoing criminal case can deny inspection of the file. The file becomes open for inspection after all the charges are dismissed or the defendant is sentenced.
 - Passed – Signed by Governor.

- ***HB 1124 Federal Overreach (Reps. Benavidez/Lontine & /Sens. Foote/ Gonzales)***
 - The bill aligns state law with existing jurisprudence. It prohibits a law enforcement officer in Colorado from arresting a person on the basis of a civil immigration detainer, and prohibits jails from detaining a person on the basis of a civil immigration detainer, assuming the person has discharged their obligations under state law. Additionally, the bill prohibits probation officers from providing an individual's personal information to federal immigration authorities.
 - Passed – awaiting Governor's signature.
- ***HB 1155 Additions to Definition of Sexual Contact (Reps. Michaelson Jenet/Carver & Sens. Lundeem/Foote)***
 - The bill adds certain conduct to the definition of sexual contact for the purposes of defining sex crimes, including forced exposure to bodily fluids.
 - Passed – Signed by Governor.
- ***HB 1160 Mental Health Facility Pilot Program (Reps. Landgraf/Singer & Sen. Lee)***
 - The bill creates a new 3-year mental health facility pilot program to provide residential care, treatment, and services to persons with both a mental health diagnosis and a physical health diagnosis. It contains requirements for applicants and directs the department of public health and environment to select one or 2 applicants for the pilot program.
 - Passed – awaiting Governor's signature.
- ***HB 1166 Name-Based Criminal History Record Checks (Rep. Sullivan)***
 - Current law requires certain people, including applicants for certain licenses, employment, or volunteer activities, to undergo a fingerprint-based criminal history record check. The bill adds the requirement that the person submit to a name-based criminal history record check when the fingerprint-based check reveals a record of arrest but does not show a disposition in the case.
 - Passed – signed by Governor.
- ***HB 1177 Extreme Risk Protection Orders (Reps. Sullivan/Garnett & Sens. Court/Pettersen)***
 - The bill 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 (ERPO) beginning January 1, 2020.
 - Passed – signed by Governor.
- ***HB 1184 Demographic Notation on Legislative Bills (Reps. Herod/Caraveo)***
 - The bill requires the staff of the legislative council to prepare demographic notes on legislative bills in each regular session of the general assembly. The speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, and the minority leader of the senate are authorized to request 5 demographic notes each, or more at the discretion of the director of research of the legislative council.
 - Passed – awaiting Governor's signature.
- ***HB 1225 No Monetary Bail For Certain Low-level Offenses (Reps. Herod/Soper & Sens. Lundeem/Lee)***
 - The bill removes petty offenses from the requirement that the court is required to release a person charged with a class 3 misdemeanor, petty offense, or unclassified offense on a personal recognizance bond unless certain conditions exist. The bill prohibits a court from imposing a monetary condition of release for a defendant charged with a traffic offense, petty offense, or municipal offense, except for a traffic offense involving death or bodily injury, eluding a police officer, circumventing an interlock device, or a municipal offense with substantially similar elements to a state misdemeanor offense. The bill does not prohibit a defendant's release based on a pretrial policy that includes monetary conditions if the defendant is informed that he or she would be released without monetary conditions if he or she waits for a bond hearing. The bill does not prohibit issuance of a warrant with monetary conditions of bond for a defendant who fails to appear in court as required or who violates a condition of release.
 - Passed – signed by Governor.

- ***HB 1250 Sexual Assault While In Custody Or Detained (Rep. Herod & Sen. Danielson)***
 - The bill creates the offense of unlawful sexual conduct by a peace officer. A peace officer commits the offense when he or she knowingly engages in sexual contact, sexual intrusion, or sexual penetration when the peace officer encounters the victim for the purpose of law enforcement or in the performance of the officer's duties; knows at the time of the unlawful sexual conduct that the victim is the subject of an active investigation; or in furtherance of sexual contact, intrusion, or penetration, the peace officer makes any show of real or apparent authority.
 - Passed – awaiting Governor's signature.
- ***HB 1263 Offense Level For Controlled Substance Possession (Reps. Herod/Sandridge & Sens. Marble/Lee)***
 - The bill makes possession of certain controlled substances in certain amounts a misdemeanor rather than a drug felony. A county drug court grant fund is created to operate misdemeanor drug courts and other court services. A community substance use and mental health services grant program is established to provide grants to counties that provide substance use or mental health treatment services to, facilitate diversion programs for, or develop other strategies to reduce jail and prison bed use by, persons who come into contact with the criminal justice system. A county is eligible to receive a grant if it provides such treatment services and programs in collaboration with public health agencies, law enforcement agencies, and community-based organizations.
 - Passed – awaiting Governor's signature.
- ***HB 1266 Restore Voting Rights Parolees (Rep. Herod & Sen. Fenberg)***
 - The bill makes an individual serving a sentence of parole eligible to register to vote and to vote in any election.
 - Passed – awaiting Governor's signature.
- ***HB 1275 Increased Eligibility For Criminal Record Sealing (Rep. Weissman & Sens. Soper/Lee)***
 - The bill creates a simplified process of record sealing by not requiring a separate civil action for defendants whose case is dismissed, who complete a diversion agreement, or who complete deferred judgement requirements. The simplified sealing eligibility is extended to other specific convictions under specific circumstances.
 - Passed – awaiting Governor's signature.
- ***HB 1297 Jail Capacity Data Collection (Reps. Weissman/McKean & Sen. Lee)***
 - The bill requires jails to expand the data collected and maintained on confined persons and to submit the data to the division of criminal justice on a quarterly basis.
 - Passed – awaiting Governor's signature.
- ***HB 1331 Remove Limitation On Evidence-based Practices Implementation For Capacity (EPIC) Resource Center Collaboration (Reps. Hansen/Ransom & Sen. Rankin)***
 - The bill removes the limit on the departments with which the center can collaborate. In the division of criminal justice in the department of public safety there is the evidence-based practices implementation for capacity resource center (center). The center's role is to develop and sustain effective implementation frameworks to support the use of evidence-based practices for both juvenile and adult populations in the criminal justice system. [The creation of EPIC was the result of a CCJJ initiative and Recommendation FY13-EPIC #01.]
 - Passed – awaiting Governor's signature.
- ***HB 1335 Juvenile Record Expungement Clean-up (Reps. Gonzales-Gutierrez/Bockenfeld & Sens. Lee/Cooke)***
 - The bill makes changes and clarifications to the juvenile record expungement provisions. The bill clarifies which dismissals and alternative dispositions are eligible for automatic expungement. The bill allows expungement of a diversion record without filing a case and allows a victim an opportunity to object. The bill clarifies when a sentence is complete, which triggers the expungement process.
 - Passed – awaiting Governor's signature.