

**AGE OF DELINQUENCY TASK FORCE**  
FINAL RECOMMENDATION PRESENTED TO THE  
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE  
July 10, 2020

**FY20-AD #02. Revise Youthful Offender System Statutes [Statutory]**

**Recommendation FY20-AD #02**

Expand the operational flexibility of the Youthful Offender System (YOS) program in the Department of Corrections; clarify the time credits that are awarded in YOS cases when a revocation occurs; address issues regarding payment of certain fees in YOS cases; and modify training requirements for DOC staff who work with inmates that are placed in YOS facilities.

Specifically, modify the following provisions in statute:

- 1) Delete in 18-1.3-407 (2)(a)(IV)(a.5) the prescriptive programming language;
- 2) Amend “may” to “shall” in 18-1.3-407 (2)(a)(IV)(b) regarding time credit;
- 3) Amend 18-1.3-407 (3.3)(c)(I) regarding placement in YOS Phase II;
- 4) Add “OR DESIGNEE” in 18-1.3-407 (3.5) regarding staff transfers to reflect current practice;
- 5) Amend 18-1.3-407 (3.5) to allow flexibility regarding staff training requirements;
- 6) Delete 18-1.3-407 (11) regarding district attorney data collection; and
- 7) Amend 18-1.3-407 (11.5)(a)(I) and (11.5)(c) to clarify court cost payments.

[See corresponding **Proposed Statutory Revisions** below.]

**Discussion**

The Department of Correction’s Youthful Offender System (YOS) was designed during a special session of the General Assembly in 1994. YOS became a sentencing option for juveniles who were prosecuted, convicted, and sentenced as adults on or after June 3, 1994 for offenses committed on or after September 13, 1993. In 1998, YOS moved from Denver to Pueblo, and in 2006 it moved to its current location on the grounds of the Colorado Mental Health Institute. YOS operates in a separate facility in Pueblo and houses approximately 180 -200 inmates who have agreed to participate in intense programming while their (typically lengthy) DOC sentence is suspended.

The statute describing YOS specifies that the state must provide a sentencing option for “certain youthful offenders” who would serve up to seven years day-for-day (meaning no good/earned time would apply) while a lengthier sentence to DOC would be suspended for the duration of the YOS sentence. According to statute, YOS offenders are to serve time in a “controlled and regimented environment that affirms dignity of self and others, promotes the value of work and self-discipline, and develops useful skills and abilities through enriched programming.”<sup>1</sup> The statute directs DOC to develop a program that provides “separate housing for female and male offenders who are sentenced to [YOS] without compromising the equitable treatment of either.”<sup>2</sup> The statute mandates that program participants “be housed separate from and not brought into daily physical contact with inmates older than twenty-four years sentenced to the department of corrections who have not been sentenced to the youthful offender system,…” and that these offenders “be subject to all laws and department of corrections rules, regulations, and standards pertaining to adult inmates…”<sup>3</sup>

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<sup>1</sup> C.R.S. 18-1.3-407(1)(a).

<sup>2</sup> C.R.S. 18-1.3-407(1)(b).

<sup>3</sup> C.R.S. 18-1.3-407(1) (c) and (d). For additional information on the Youthful Offender System see, [cdpsdocs.state.co.us/ors/Docs/Reports/2018\\_YOSRpt.pdf](https://cdpsdocs.state.co.us/ors/Docs/Reports/2018_YOSRpt.pdf)

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The statutorily-defined eligibility criteria have changed many times, but the original statutes that define the program have remained mostly consistent over the years. Given the significant increase in knowledge regarding this young offender population, many aspects of the prescriptive nature of the YOS enabling statutes require updating and modification. Further, some mandates are confusing and have been interpreted differently by judges and district attorneys. Finally, there is considerable confusion regarding time credits for pretrial confinement and in cases of revocation. For these reasons, this recommendation seeks to clarify and amend certain components of the YOS statute.

**Proposed Statutory Revisions**

*(Corresponds with numbered list above.)*

- 1) Delete prescriptive language in 18-1.3-407 (2)(a)(IV)(a.5).

~~18-1.3-407 (2)(a)(IV)(a.5) During any period of incarceration under the youthful offender system, privileges including, but not limited to, televisions, radios, and entertainment systems, shall not be available for an offender unless such privileges have been earned under a merit system.~~

- 2) Revise “may” to “shall” in 18-1.3-407 (2)(a)(IV)(b) to clarify legislative intent and give time credit of one day for each day served in YOS to an offender who is revoked without affecting other forms of time credit to which individuals are entitled. Staff at YOS report varying interpretations of this language by courts.

18-1.3-407 (2)(a)(IV)(b). Article 22.5 of title 17, C.R.S., concerning time credits, shall not apply to any person sentenced to the youthful offender system; except that an offender whose sentence to the youthful offender system the youthful offender system is revoked pursuant to subsection (5) of this section **SHALL** may receive one day of credit against the suspended sentence imposed by the court following revocation of the sentence to the youthful offender system for each day the offender served in the youthful offender system, excluding any period of time during which the offender was under community supervision **BUT INCLUDING CREDIT FOR PRE-SENTENCE CONFINEMENT AUTHORIZED PURSUANT TO 18-1.3-405, C.R.S.**

- 3) Revise Phase II language in 18-1.3-407 (3.3)(c)(I) to allow YOS to put an offender in Phase II from 3 to 6 months prior to the end of the institutional confinement portion of the YOS sentence, rather than a strict 90 days. (Change “last three months” to “last three to six months.”)

18-1.3-407 (3.3)(c)(I). Phase II, which may be administered during the last three **TO SIX** months of the period of institutional confinement....

- 4) Add “OR DESIGNEE” in 18-1.3-407 (3.5) to allow an executive director designee also to have final approval on the hiring and transferring of staff for the youthful offender system. This would reflect current practice. *[NOTE: See additional revisions to this same statute in #5 below.]*

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18-1.3-407 (3.5). The executive director of the department of corrections **OR DESIGNEE** shall have final approval on the hiring and transferring of staff for the youthful offender system. In staffing the youthful offender system, the executive director **OR DESIGNEE** shall select persons who are trained in the treatment of youthful offenders or will be trained in the treatment of youthful offenders prior to working with such population, are trained to act as role models and mentors pursuant to paragraph (c) of subsection (3) of this section, and are best equipped to enable the youthful offender system to meet the principles specified in subsection (3) of this section. The executive director **OR DESIGNEE** shall make a recommendation to the department of personnel regarding the classification of positions with the youthful offender system, taking into account the level of education and training required for such positions.

- 5) Amend 18-1.3-407 (3.5) to allow flexibility regarding staff training requirements.

*[NOTE: All revisions recommended by #4 above are displayed here in ALL CAPS without bold. Note also that the terms "juveniles" and "young adult offenders" refer to specific and separate groups of inmates who are subject to different procedures and processes in YOS.]*

18-1.3-407 (3.5). The executive director of the department of corrections OR DESIGNEE shall have final approval on the hiring and transferring of staff for the youthful offender system. In staffing the youthful offender system, the executive director OR DESIGNEE shall select persons who are trained in the treatment of youthful offenders or will be trained in the treatment of youthful offenders ~~prior to working with such population~~, are trained to act as role models and mentors pursuant to paragraph (c) of subsection (3) of this section, and are best equipped to enable the youthful offender system to meet the principles specified in subsection (3) of this section. **ALL STAFF MEMBERS SHALL BE TRAINED IN THE TREATMENT OF YOUTHFUL OFFENDERS WITHIN 45 DAYS OF THEIR FIRST DAY AT THE YOUTHFUL OFFENDER SYSTEM; PRIOR TO RECEIVING THIS TRAINING, A STAFF MEMBER SHALL NOT WORK DIRECTLY WITH JUVENILES AND SHALL BE SUPERVISED BY A TRAINED STAFF MEMBER WHEN WORKING WITH ANY YOUNG ADULT OFFENDERS AT THE YOUTHFUL OFFENDER SYSTEM.** The executive director OR DESIGNEE shall make a recommendation to the department of personnel regarding the classification of positions with the youthful offender system, taking into account the level of education and training required for such positions.

- 6) Delete 18-1.3-407 (11) because this data collection language is unnecessary. This information currently is already collected and readily available from other databases.

~~18-1.3-407 (11). Any district attorney in the state shall maintain records regarding juveniles who are sentenced to the youthful offender system and such records shall indicate which juveniles have been filed on as adults or are sentenced to the system and the offenses committed by such juveniles.~~

- 7) Amend 18-1.3-407 (11.5) (a) (I) and (11.5) (c) to clarify court cost payments. In existence since the creation of the Youthful Offender System, Senate Bill 09-241 created the offender identification fund in 24-33.5-415.6, which is funded through a \$2.50 fee paid to the clerk of the court who

[As Approved]

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forwards it to a State Treasury fund. Therefore, the payments are part of the court costs in a case and do not come to DOC for collection or disbursement.

18-1.3-407 (11.5) (a) (I). An offender who is sentenced to the youthful offender system shall submit to ~~and pay for~~ collection and a chemical testing of a biological substance sample from the offender to determine the genetic markers thereof.

18-1.3-407 (11.5) ~~(c) Any moneys received from offenders pursuant to paragraph (a) of this subsection (11.5) shall be deposited in the offender identification fund created in section 24-33.5-415.6, C.R.S.~~