

RECOMMENDATIONS FOR 2003

**INTERIM COMMITTEE TO STUDY THE
CRIMINAL SENTENCING STATUTES**

**Report to the
Colorado General Assembly**

**Research Publication No. 505
December 2002**

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December 2002

To Members of the Sixty-third General Assembly:

Submitted herewith is the final report of the Interim Committee to Study the Criminal Sentencing Statutes. This committee was created pursuant to Senate Joint Resolution 02-032. The charge to the committee was to identify ways in which the criminal sentencing statutes could be simplified and clarified as well as ways to improve Colorado's criminal justice system.

At its meeting on October 15, 2002, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bill therein for consideration in the 2003 session was approved.

Respectfully submitted,

/s/ Representative Doug Dean
Chairman
Legislative Council

DD/CJ/cs

TABLE OF CONTENTS

	PAGE
LETTER OF TRANSMITTAL	iii
TABLE OF CONTENTS	v
MEMBERS OF THE COMMITTEE	vii
EXECUTIVE SUMMARY	ix
Committee Charge	ix
Committee Activities	ix
Committee Recommendations	x
STATUTORY AUTHORITY AND RESPONSIBILITIES	1
COMMITTEE ACTIVITIES	3
Background Information	3
Long-term Task Force	4
Short-term Task Force	8
SUMMARY OF RECOMMENDATIONS	13
Bill A — Concerning the Continued Examination of Criminal Sentencing Issues	13
RESOURCE MATERIALS	15
Meeting Summaries	15
Memoranda and Reports	17
RECOMMENDED BILL AND FISCAL NOTE	19
Bill A — The Continued Examination of Criminal Sentencing Issues	19
— Fiscal Note	25
APPENDICES	27
Appendix A - Sentence Enhancers and Aggravators	27
Appendix B - Crime, Victim, and Offender-related Sentencing Factors for Selected Crimes	29
Appendix C - Mandatory Sentencing Provisions in the Colorado Revised Statutes	39
Appendix D - History of Mandatory Sentencing Provisions for Selected Habitual Offender, Escape, Attempted Escape, and Violation of Bail Bond Statutes	49
Appendix E - Circumstances Under Which a District Attorney May Charge a Juvenile as an Adult	53
Appendix F - Technical Parole Violations	57

INTERIM COMMITTEE TO STUDY THE CRIMINAL SENTENCING STATUTES

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EXECUTIVE SUMMARY

Committee Charge

The Interim Committee on Criminal Sentencing first met during the 2001 interim pursuant to House Joint Resolution 01-1027. The committee was charged with examining criminal sentencing in Colorado. During the 2001 interim, the committee determined that the complex issues surrounding criminal sentencing, and the task of creating a new criminal sentencing structure, required a careful, reasoned, and thorough approach that could not be accomplished in one interim. Therefore, pursuant to Senate Joint Resolution 02-032, the Interim Committee on Criminal Sentencing was continued in order to harmonize and clarify Colorado's sentencing laws. Specifically, the committee was charged with recommending changes to the criminal code that would keep dangerous criminals out of the community, considering correctional and sentencing alternatives to incarceration while maintaining public safety, and examining the criminal sentencing statutes to devise the most fair, effective, and economic criminal justice system possible.

Committee Activities

At the first committee meeting, prosecuting and defense attorneys identified issues of priority, including recodification of Colorado's criminal sentencing laws and a review of mandatory sentences, drug treatment programs, and demographic disparities. As a result, the committee decided to create two task forces to work on these issues during the interim. The Task Force on Long-term Sentencing Issues was to begin reviewing Colorado's criminal sentencing laws and to consider the need to recodify the criminal code over the next three to five years. The Task Force on Short-term Sentencing Issues was to focus on drug treatment programs, demographic disparities, and mandatory minimum sentencing.

At subsequent meetings, the Short-term Task Force and the full committee heard testimony on these issues from state agencies, district attorneys, defense attorneys, victim's groups, and other interested persons. Those who testified also discussed sentencing for juveniles who are charged as adults, parolees and community reintegration, parolees in community corrections facilities, and DNA testing of offenders, and made various suggestions for legislation.

The committee considered one proposal to draft a bill regarding changes to sentences for juveniles who are charged, tried, and sentenced as adults for a class one felony, but the committee rejected this proposal. The committee decided not to propose legislation to address the use of DNA testing of offenders because the district attorneys and public defenders are still determining their positions on this issue. Due to a lack of consensus on how to address the remaining issues raised during committee hearings, no bills were proposed regarding demographic disparities, drug treatment programs, parolees and community reintegration, or parolees and community corrections programs.

Long-term Task Force. During the 2001 interim, the Interim Committee on Criminal Sentencing proposed, and the General Assembly subsequently adopted, legislation to relocate all criminal sentencing laws to a new article in the Criminal Code. This interim, the Interim Committee continued its efforts to simplify the criminal sentencing statutes. The Colorado District Attorneys Council (CDAC) proposed undertaking a long-term effort to create a new criminal code and submitted a suggestion for a three-phase plan to do so.

- Phase I would be an effort to identify, in the criminal code, all of the factors of a crime and to categorize them in one of three categories: elements of the crime that are specific to the offense; elements of the crime that are specific to the offender; and elements of the crime that are specific to the victim.
- Phase II would be an effort to evaluate different approaches to re-organizing the above factors in the statutes so that they can be identified and applied consistently and easily.
- Phase III would be an effort to examine each of the factors that have been identified to determine whether they continue to serve the public safety.

The Task Force on Long-term Sentencing Issues, co-chaired by Representative Richard Decker and Senator Alice Nichol, directed staff to begin work on phase I of the plan. Along with representatives of the CDAC and the Colorado Criminal Defense Bar, staff has been engaged in several exercises to identify all sentencing elements, and to examine ways to restructure those elements for ease of use and consistent application.

Because of the long-term nature of these efforts, the Interim Committee is proposing a legislative oversight committee to oversee the work of a task force that will, over a three-year period, develop legislative proposals encompassing phases I, II, and III.

Committee Recommendations

Bill A — Continued Examination of Criminal Sentencing Issues. Bill A creates a six-member legislative committee to continue to study criminal sentencing issues. The legislative committee would oversee the work of a 12-member task force comprised of two members from the Judicial Branch, six prosecutors, and four defense attorneys charged to make recommendations to the legislative committee on the simplification and clarification of the criminal sentencing statutes, including consideration of a new sentencing structure, and the centralization of the sentencing statutes. The task force would submit its final report by October 1, 2005, and the legislative committee would be repealed on July 1, 2006.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Pursuant to Senate Joint Resolution 02-032, the Interim Committee on Criminal Sentencing was charged with studying Colorado's criminal sentencing statutes in order to harmonize and clarify the criminal sentencing laws. With the goal of preserving and protecting the public peace and safety, the committee was charged with:

- identifying and clarifying conflicting and confusing statutes;
- recommending ways to clarify those statutes;
- considering and recommending, if appropriate, changes to the statutes to keep dangerous criminals separated from the community;
- considering alternative correctional and sentencing options;
- devising the most fair, effective, and economic criminal justice system possible; and
- if necessary, to recommend further continuation of the committee.

COMMITTEE ACTIVITIES

Background Information

Interim 2001. The Interim Committee to Study the Criminal Sentencing Statutes was created during the 2001 legislative session to help harmonize and clarify the criminal sentencing statutes in Colorado. Members of the General Assembly were concerned that the complexity of Colorado's statutes could result in misinterpretation of the statutory sentencing laws and thought that an analysis was necessary as the laws had not been examined in their totality by the General Assembly in several years. During the 2001 interim, the committee determined that the complex issues surrounding criminal sentencing, and the task of creating a new criminal sentencing structure, required a careful, reasoned, and thorough approach that could not be accomplished in one interim.

Interim 2002. Pursuant to Senate Joint Resolution 02-032, the Interim Committee on Criminal Sentencing was continued in order to harmonize and clarify Colorado's sentencing laws. Specifically, the committee was charged with recommending changes to the criminal code that would keep dangerous criminals out of the community, considering correctional and sentencing alternatives to incarceration while maintaining public safety, and examining the criminal sentencing statutes to devise the most fair, effective, and economic criminal justice system possible.

At the first committee meeting, prosecuting attorneys and defense attorneys presented issues they felt the committee needed to look at as top priority. These issues included recodification of Colorado's criminal sentencing laws, a review of mandatory sentences, drug treatment programs, and demographic disparities. Also at the first meeting, prosecutors, defense attorneys, and judges presented a three phase long-term plan to the committee.

The committee decided to create two task forces to begin work on these issues during the interim. The Task Force on Long-term Sentencing Issues was to begin work on the three-phase plan. This process was to include reviewing Colorado's criminal sentencing laws while considering the need to recodify the criminal code over the next three to five years. The Task Force on Short-term Sentencing Issues was to focus on drug treatment programs, demographic disparities, and mandatory minimum sentencing.

At subsequent meetings, the Short-term Task Force and the full committee heard testimony on these issues from state agencies, district attorneys, defense attorneys, victims groups, and other interested persons. Those who testified also discussed sentencing for juveniles who are charged as adults, parolees and community reintegration, parolees in community corrections facilities, and DNA testing of offenders, and made various suggestions for legislation. The full committee also received updates on the progress and direction of the Long-term Task Force.

The committee considered one proposal to draft a bill regarding changes to sentences for juveniles who are charged, tried, and sentenced as adults for a class one felony, but the committee rejected this proposal. The committee decided not to propose legislation to address the use of DNA testing of offenders because the district attorneys and public defenders are still determining their positions on this issue. Due to a lack of consensus on how to address the remaining issues raised during committee hearings, no bills were proposed regarding demographic disparities, drug treatment programs, parolees and community reintegration, or parolees and community corrections programs.

Long-term Task Force

During the 2001 interim, the Interim Committee on Criminal Sentencing Task Force on Simplification and Clarification heard testimony from judges, prosecutors, and defense attorneys that Colorado's criminal sentencing laws are unclear and difficult to use. Different sentencing requirements for an individual crime are located in more than one place in the statutes. Colorado sentencing law provides for numerous sentence enhancers and aggravators that can increase a sentence. Other laws provide for mandatory minimum sentences to incarceration. Often, these sentencing provisions overlap and conflict. Further, these sentencing provisions can mean that for a single crime, there is a wide range of sentencing options for a judge. For instance, when considering all of the statutory sentencing enhancers, mitigators, and aggravators for the crime of second degree assault, there are 34 different possible sentences.

The major categories of sentence enhancers and aggravators are listed in Table 1. A description of each category of sentence aggravators and mitigators listed in the table can be found in Appendix A.

**Table 1:
Colorado Sentencing Law as of July 2002 (Section 18-1.3-401, C.R.S.)**

Class of Crime	Normal Presumptive Range 18-1.3-401	Extraordinary Mitigating Circumstances 18-1.3-401 (6)	Sentence Enhancing Circumstances 18-1.3-401 (9)	Extraordinary Aggravating Circumstances 18-1.3-401 (8) (a)/ Crime of Violence (18-1.3-406)	Extraordinary Aggravating Circumstances 18-1.3-401 (6)	Little Habitual 18-1.3-801 (1.5)	Big Habitual 18-1.3-801 (2)	Mandatory Parole 18-1.3-401
Class 2	8-24 yrs	4-8 yrs	8-48 yrs	16-48 yrs	24-48 yrs	72 yrs	96 yrs	5 yrs
Class 3 (extraordinary risk of harm 18-1.3-401 (10))	4-16	2-4	4-32	10-32	16-32	48	64	5
Class 3	4-12	2-4	4-24	8-24	12-24	36	48	5
Class 4 (extraordinary risk of harm 18-1.3-401 (10))	2-8	1-2	2-16	5-16	8-16	24	32	3
Class 4	2-6	1-2	2-12	4-12	6-12	18	24	3
Class 5 (extraordinary risk of harm 18-1.3-401 (10))	1-4	6 mos - 1 yr	1-8	30 mos - 8 yrs	4-8	12	16	2
Class 5	1-3	6 mos - 1 yr	1-6	2-6	3-6	9	12	2
Class 6 (extraordinary risk of harm 18-1.3-401 (10))	1-2	6 mos - 1 yr	1-4	18 mos - 4 yrs	2-4	NA	8	1
Class 6	1 yr - 18 mos	6 mos - 1 yr	1-3	15 mos - 3 yrs	18 mos - 3 yrs	NA	6	1

Source: Legislative Council Staff

In addition to the basic sentencing scheme in Section 18-1.3-401, C.R.S., charted in Table 1, that section of law contains additional sentencing requirements for individual crimes which are listed in Table 2.

**Table 2:
Additional Sentencing Provisions for Individual Crimes from Section 18-1.3-401, C.R.S.**

Crime/Category of Crimes	Elements	Effect on Sentence
First or second degree assault	First degree assault or second degree assault when the victim is a peace officer or firefighter engaged in the performance of his or her duties.	Mandatory sentence to imprisonment.
Class 2 or class 3 felony child abuse	Knowing and reckless child abuse resulting in the death of a child (class 2 felony). Knowing or reckless child abuse resulting in serious bodily injury to the child (class 3 felony).	Sentence to imprisonment of at least the midpoint in the presumptive range but not more than twice the maximum.
Class 2 felony first degree sex assault (committed prior to November 1, 1998)	Sex assault when the actor is physically aided or abetted by one or more other persons or the victim suffers serious bodily injury or the actor is armed with a deadly weapon and uses the weapon to cause submission of the victim.	Sentence to imprisonment of at least the midpoint in the presumptive range but not more than twice the maximum.
Class 3 or class 4 vehicular homicide	Operating a motor vehicle while under the influence of alcohol or drugs or both and such conduct is the proximate cause of the death of another (class 3 felony). Causing the death of another while recklessly operating a motor vehicle (class 4 felony).	Sentence to imprisonment of at least the midpoint in the presumptive range but not more than twice the maximum.
Crimes involving domestic violence committed against pregnant women	<ul style="list-style-type: none"> • Murder; • manslaughter; • criminally negligent homicide; • vehicular homicide; • first and second degree assault; or • vehicular assault. 	Sentence to imprisonment of at least the midpoint in the presumptive range but not more than twice the maximum.

When considering how to charge, defend, and sentence an offender, prosecutors, defense attorneys, and judges must consider all of the information in Table 1 and Table 2 in conjunction with any number of sentencing requirements listed in the individual statute describing a particular crime. In some cases, particularly crimes of violence or crimes committed by habitual offenders, a third and fourth statute must be consulted in order to determine the sentence. The Interim Committee has continued to work towards reorganizing the sentencing laws in order to eliminate the need to go to several places in the statutes to figure out charges and sentences.

Last year, as the first step towards clarifying, simplifying, and eventually recodifying Colorado's Criminal Code, the Task Force and Interim Committee proposed, and the General Assembly subsequently adopted, legislation to relocate all criminal sentencing laws from Title 16 and Title 18 to a new Article 1.3 in Title 18, the Criminal Code (H.B. 02-1046). While this effort relocated sentencing provisions from two different C.R.S. titles into one title, it did not eliminate the need to consult several different statutes in order to calculate a sentence.

During the 2002 interim, the Interim Committee worked towards the next steps in simplifying the criminal sentencing statutes by creating the Task Force on Long-term Criminal Sentencing

Issues. The Colorado District Attorneys Council (CDAC) proposed undertaking a long-term effort to rewrite the criminal code and submitted a suggestion for a three-phase plan to do so.

- Phase I would be an effort to identify, in the criminal code, all of the factors of a crime and to categorize them in one of three categories: elements of the crime that are specific to the offense; elements of the crime that are specific to the offender; and elements of the crime that are specific to the victim.
- Phase II would be an effort to evaluate different approaches to reorganizing the above factors in the statutes so that they can be identified and applied consistently and easily.
- Phase III would be an effort to examine each of the factors that have been identified to determine whether they continue to serve the public safety.

Under the direction of the Task Force, an informal working group comprised of staff, representatives of the CDAC, and the Colorado Criminal Defense Bar, began work on phase I of the plan. This work group first met every two weeks and then monthly to engage in several exercises to identify all sentencing elements, and to examine ways to restructure those elements for ease of use and consistent application.

The first exercise the work group undertook was to identify and categorize sentencing elements for particular crimes. The goal of the exercise was to determine whether it was possible to isolate all of the sentencing elements for various types of crime, identify the common sentencing elements, and then figure out whether there was a better way to regroup, rearrange, or relocate those elements. Each member of the work group took one category of crimes (theft, burglary, sex assault, crimes against at-risk adults and juveniles, and kidnapping, for instance) and listed the various elements that affect the sentence for that crime. During the course of the exercise, the complexity of the sentencing statutes became apparent. For instance, for the crime of theft (excluding theft from an at-risk person), depending upon the elements of the offense, there are at least 30 separate crimes of theft ranging from class 3 misdemeanors to class 3 felonies (see appendix B for a compilation of the group's work on this exercise).

After having identified sentencing elements for specified crimes, the group engaged in a second exercise to re-write or reorganize the same statutes so that the individual crimes and their sentences could be more easily located and identified. Each individual participating in the exercise used a different approach. Some delineated each crime with a new section number, each section with one crime and one sentence. Others developed and followed a pattern in which the first section listed the base elements of the crime and the second and subsequent sections listed all possible aggravated and enhanced sentences. The common theme in all of the approaches was that they eliminated the need to look in more than one place to find out all possible sentences for a specific crime.

All of the subsequent exercises in which the work group has engaged have involved refining approaches for reorganizing individual crime statutes. The work group has begun to come to some agreement on uniform approaches to reorganizing the criminal sentencing statutes. While the work group met as an informal group at the request of the Interim Committee, members of the group

anticipate that they will be appointed to the official task force should the legislation renewing the Interim Committee and creating the task force be adopted in order to continue and complete this task.

Recommendation. Because of the long-term nature of these efforts, the Interim Committee proposes forming a legislative oversight committee to oversee the work of a task force that will, over a three-year period, develop legislative proposals encompassing phase I, phase II, and phase III.

Short-term Task Force

The Task Force on Short-term Sentencing Issues was to focus on drug treatment programs, demographic disparities, and mandatory minimum sentencing. During the 2002 legislative session, the Interim Committee proposed legislation that the General Assembly adopted and the Governor vetoed. Due to the veto, the committee decided not to focus on or propose legislation regarding drug crimes and drug treatment. Instead, the committee decided to focus the Short-term Task Force primarily on demographic disparities and mandatory sentencing.

Demographic disparities. The Task Force discussed the question of demographic disparities within the criminal justice system. Members of the Task Force wanted to identify the stage at which any bias may exist: arrest, prosecution, or sentence. When deciding how to study demographic disparities, the committee's focus turned toward racial/ethnic disparities. Although many variables are tracked in the district attorneys' database (Blackstone), and the sister database kept by the Colorado Public Defender's office, race is not tracked consistently.

Judges, prosecutors, and public defenders testified before the Task Force and the committee regarding racial/ethnic disparities and the challenges present when studying this issue. One of the challenges is the collection of racial data. If the data is collected it is because district attorneys or public defenders have asked the defendant his or her race. This can lead to problems because defendants may provide misinformation in order to not be matched to a previous case, or not be identified by a victim. For these reasons, historically, district attorneys and public defenders have not asked individuals their race. Further, it was brought to the committee's attention that there are only five racial variables in Blackstone to choose from:

- Asian;
- Black;
- Indian;
- Unknown; and
- White.

According to the Colorado District Attorneys Council, they must use these categories which were created by the National Crime Information Center (NCIC) and adopted by the Colorado Crime Information Center (CCIC), or risk being audited. Obviously, these limited categories can make it difficult to accurately identify Hispanics, Native Americans, Indians, etc. The State Public Defender database uses similar categories as in Blackstone with one exception; the Public Defender's database does include a category of Hispanic.

Mandatory minimum sentences. The Task Force discussed the benefits and disadvantages of mandatory sentences. Members of the Judicial Branch acknowledged that mandatory sentences take discretion away from judges. Prosecutors and defense attorneys agreed that mandatory sentencing provisions take away their discretion over how to charge, prosecute, and defend a defendant. Ultimately, most everyone involved in the criminal justice system prefers discretion over sentencing guidelines. Mandatory sentences have generally been enacted when public sentiment has caused outrage over perceived inappropriate or inadequate sentences for particular crimes. There are at least 68 mandatory sentencing provisions, excluding mandatory fines, located in Colorado law. For a complete listing of these sentences see Appendix C.

The Task Force and committee specifically looked at the mandatory sentences for escapes and violations of conditions of bail. Witnesses asked the committee to consider repealing the mandatory sentencing provisions for:

- nonviolent habitual offenders;
- offenders who are late in returning to a community corrections facility and subsequently charged with escape; and
- offenses related to violation of bail bond conditions.

The history of certain mandatory sentencing provisions and consecutive sentence provisions can be found in Appendix D.

Staff analyzed felony charges, convictions, and sentencing trends for a selected group of mandatory sentencing provisions (listed in the following tables). Charges for controlled substance-related crimes increased the most over the past 5 years. Convictions for repeated failure to register as a sex offender increased the most compared to the selected crimes analyzed. From FY 1997-98 through FY 2001-02 the estimated number of prison sentences for special drug offenders increased at an average rate of 35.5 percent per year. Table 3 provides an analysis of felony charges, convictions, sentencing trends, and prison admissions for this selected group of mandatory sentencing provisions.

**Table 3:
Felony Charges, Felony Convictions, and Prison Sentences for
Mandatory Sentencing Provisions
FY 1997-98 to 2001-02**

Mandatory Sentencing Provision	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	Average Annual Growth Rate
Crimes of Violence						
Felony Charges	937	1,005	1,012	947	1,093	3.9%
Felony Convictions	544	598	655	711	820	10.8%
Prison Sentences	181	263	255	269	328	16.0%
Habitual Criminal						
Felony Charges	187	227	339	302	313	13.7%
Felony Convictions	136	140	184	170	262	17.8%
Prison Sentences	127	111	128	135	211	13.5%
Sexual Assault on a Child						
Felony Charges	607	698	693	801	801	7.2%
Felony Convictions	292	305	365	303	422	9.6%
Prison Sentences	138	119	160	120	137	-0.2%
Sex Offenders Duty to Register *						
Felony Charges	0	4	10	25	225	NA *
Felony Convictions	1	1	4	5	55	172.3%
Prison Sentences	0	0	2	1	5	NA *
Escapes						
Felony Charges	484	425	497	539	522	1.9%
Felony Convictions	385	245	260	261	291	-6.8%
Prison Sentences	358	231	226	218	241	-9.4%
Attempt to Escape						
Felony Charges	273	411	361	339	365	7.5%
Felony Convictions	253	339	371	347	373	10.2%
Prison Sentences	241	325	354	299	327	7.9%
Violation of Bail Bond						
Felony Charges	144	216	231	244	276	17.7%
Felony Convictions	23	17	27	26	42	16.2%
Prison Sentences	13	10	16	13	20	11.4%
Controlled Substance -- Large Quantities						
Felony Charges	72	114	127	118	183	26.3%
Felony Convictions	41	55	47	61	72	15.1%
Prison Sentences	25	46	33	36	47	17.1%
Special Drug Offender						
Felony Charges	88	113	94	130	271	32.5%
Felony Convictions	15	22	20	21	27	15.8%
Prison Sentences	8	14	16	18	27	35.5%

Source: Colorado District Attorney "Blackstone" Database.

* The crime of "failure to register as a sex offender" was enhanced in 1998, 2000, 2001, and 2002. Therefore, the frequencies of filings, convictions, and prison sentences for that crime are not comparable over time.

Direct filing of juveniles and transferring juveniles to district court. The direct filing of juveniles was a subtopic of the mandatory minimum sentencing discussion. Colorado law provides that juveniles can be tried as adults in district court when a district attorney files criminal charges against the juvenile in district court, or when a juvenile court transfers a case from juvenile court to district court. Appendix E lists the circumstances under which a district attorney may charge a juvenile as an adult.

The Short-term Task Force, the committee, and witnesses discussed the impact of sentences for juveniles charged in district court and those transferred from juvenile to district court. Specifically, they discussed the lack of discretion for the judge and jury in sentencing juveniles convicted of class 1 felonies in district court. However, the Colorado District Attorneys Council (CDAC) informed the Task Force that the decision to charge first degree murder is done collectively with much deliberation. District attorneys would oppose legislation that would do away with life imprisonment without the possibility of parole for juveniles filed on as adults.

Parole Revocations. Parole revocations were also a subtopic of the discussions regarding mandatory minimum sentences. Returns to prison based on supervision revocations have increased faster than original prison admissions in recent years. Table 4 illustrates the trends in prison admissions by admission type from FY 1996-96 to FY 2001-02. One reason for the increase in parole return admissions is the result of mandatory parole passed by HB 93-1302. A mandatory parole period for every inmate has contributed to the growth in the parole population and has increased the chances and opportunities for revocation.

**Table 4:
Historical Admissions to Prison by Admission Type**

Fiscal Year	Court Commitments to DOC		Technical Returns to DOC		New Crime Returns to DOC		Total Admissions to DOC	
	Admits	Growth	Admits	Growth	Admits	Growth	Admits	Growth
FY 1995-96	4,137		931		282		5,371	
FY 1996-97	4,301	4.0%	1,075	15.5%	377	33.7%	5,765	7.3%
FY 1997-98	4,411	2.6%	1,361	26.6%	409	8.5%	6,192	7.4%
FY 1998-99	4,352	-1.3%	1,751	28.7%	481	17.6%	6,602	6.6%
FY 1999-00	4,235	-2.7%	2,147	22.6%	450	-6.4%	6,853	3.8%
FY 2000-01	4,491	6.0%	1,999	-6.9%	438	-2.7%	6,952	1.4%
FY 2001-02	5,042	12.3%	2,244	12.3%	433	-1.1%	7,759	11.6%
Average Annual Growth Rate	3.4%		15.8%		7.4%		6.3%	

Source: Department of Corrections.

Total admissions include miscellaneous types such as interstate or federal prisoners.

It is important to note that a technical parole violation, as referred to in the previous table, is any violation of the conditions of parole other than a conviction for a new felony. Technical violations include convictions for misdemeanors and traffic offenses. When a parolee is *charged* with a new felony, it is also a technical parole violation. This violation is considered a technical violation until the individual is *convicted* of the new felony.

Every parolee must sign a written agreement that lists statutory conditions of parole and additional conditions deemed appropriate by the parole board. Colorado law requires the conditions of parole to include many items. Appendix F lists conditions of parole in Colorado.

Pursuant to committee questions about the range of technical violations for which offenders can be cited, testimony indicated that other states may have more detailed lists of conditions of parole. Legislative Council Staff located conditions of parole for 47 states. The conditions of parole in most all of the states are substantively the same as those in Colorado. Also similar to Colorado, all of the states allow for additional conditions of parole which are specific to the offender. Appendix F also lists conditions of parole in selected other states.

Conclusion. Based on the findings of the Short-term Task Force, the committee considered a proposal to draft legislation regarding the direct file of juvenile offenders. Specifically, some of the members considered a proposal to provide more discretion in the sentencing of juveniles. One of the options members considered was allowing a judge to sentence a juvenile convicted of a class 1 felony to the Youth Offender System (YOS). However, this motion failed.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bill was recommended to the Colorado General Assembly.

Bill A — Concerning the Continued Examination of Criminal Sentencing Issues

Bill A creates a six-member legislative committee to continue to study criminal sentencing issues. The legislative committee would oversee the work of a 12-member task force comprised of two members from the Judicial Branch, six prosecutors, and four defense attorneys charged to make recommendations to the legislative committee on the simplification and clarification of the criminal sentencing statutes, including consideration of a new sentencing structure, and the centralization of the sentencing statutes. The task force would submit its final report by October 1, 2005, and the legislative committee would be repealed on July 1, 2006.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council Staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver, (303-866-2055). For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2002/02interim.htm

Meeting Summaries Topics Discussed

Oversight Committee

- July 10, 2002 The committee made decisions on legislative priorities including short-term and long-term criminal sentencing issues. Two task forces were created; Senator Gordon identified three areas for the Short-term Task Force including demographic disparities, drug treatment programs, and mandatory sentencing. The Long-term Task Force will conduct a complete review of the sentencing laws. Members of each of the task forces were chosen.
- July 23, 2002 A briefing was given by Senator Gordon and Representative Hefley on the decision not to revisit SB 02-039 concerning drug offender treatment. A discussion of the goals and direction of the Task Force on Short-term Criminal Sentencing Issues was led by Representative Groff and Senator Dyer, co-chairs of the Task Force. A discussion of a plan to compile statutory information for Phase I of the Task Force on Long-term Criminal Sentencing Issues took place. The committee reviewed committee meeting dates and deadlines for requesting and reviewing proposed legislation.
- August 13, 2002 Peter Weir, Colorado District Attorneys Council (CDAC), gave a progress report on Phase I of the Long-term work group. There was a discussion between David Kaplan, Colorado Public Defender, and Mr. Weir, on the preservation and use of DNA as evidence. The committee visited the Department of Corrections (DOC) Community Reintegration Facility during a working lunch. Upon returning to the Capitol, a presentation was given by the Judicial Branch concerning probation programs and recidivism rates, and gaps between the availability of and the need for drug treatment.

- August 27, 2002 The committee re-visited issues relating to gaps in drug treatment and discussed innovative drug treatment programs in Community Corrections. An update on DNA discussions between the CDAC and the Defense Bar was given by Peter Weir. A committee discussion of proposed legislation took place and direction was given to the Office of Legislative Legal Services.
- September 10, 2002 The committee received an update on the work of the Long-term Criminal Sentencing Issues work group from Peter Weir, CDAC. The committee discussed and voted to approve the creation of draft legislation to continue the work of the Long-term Task Force.
- October 1, 2002 Stephen Miller, Office of Legislative Legal Services, reviewed the draft legislation, Concerning the Continued Examination of Criminal Sentencing Issues. The bill continues the Interim Committee and creates a Long-term Task Force through July, 2006. An amendment was added to the bill that re-organized the membership of the Task Force. The draft of the bill was passed by the committee. Representative Decker and Senator Gordon agreed to be primary sponsors. Representatives Hefley and Boyd and Senators Nichol and Phillips agreed to co-sponsor the legislation.

Task Force on Short-term Criminal Sentencing Issues Meetings:

- July 16, 2002 The Task Force prioritized the issues of mandatory sentencing and drug offender treatment for consideration at future meetings. It was suggested that Senator Gordon consult the Governor before re-visiting SB 02-039, Drug Offender Treatment, which was passed by the General Assembly but vetoed by the Governor.
- July 22, 2002 Public testimony and committee discussion on the issues of mandatory sentencing was lead by Kim Morss, Judicial Branch Legal Counsel, and Gerald Marroney, State Court Administrator and former district court judge. Marroney suggested that the Long-term Task Force review traffic offenses with mandatory sentences.
- August 20, 2002 Discussion took place on demographic disparities including the availability of data from the district attorney's database (Blackstone). David Kaplan, Colorado Public Defender, spoke to caseloads and the effect they have on representation of defendants. The committee was interested in learning if high caseloads contribute to demographic disparities. Mr. Kaplan informed the committee that Colorado caseloads exceed the limit according to national standards, but not so excessively that the state is in violation.

Memoranda and Reports

Legislative Council Memoranda Provided to the Criminal Sentencing Committee:

Parole Revocations, August 13, 2002.

Overview of Parole Revocations to Prison, August 13, 2002.

Recent Drug Treatment Laws Adopted in Other States, August 13, 2002.

Circumstances Under Which a District Attorney May Charge a Juvenile as an Adult (Short-term Task Force), August 20, 2002.

List of Variables in Blackstone Database (Short-term Task Force), August 13, 2002, August 21, 2002.

Community Corrections - Ten Percent of the Department of Corrections's Overall Population, August 27, 2002.

Trends in Filing, Conviction, and Sentencing of Selected Mandatory Sentence Provisions, August 27, 2002.

Technical Parole Violations, August 27, 2002.

Options Available to the Parole Board, August 27, 2002.

Mandatory Sentencing Provisions, August 27, 2002.

The Use of Evidence for DNA Testing of Offenders, August 27, 2002.

Mandatory Sentence History for Certain Offenses, August 27, 2002.

Reports Provided to the Criminal Sentencing Committee:

Community Integration, background paper provided by the Department of Corrections, August 13, 2002.

Gaps Cited Between Availability of Offender Substance Abuse Treatments Services and Need, provided by the Colorado Department of Human Services, DOC, Department of Public Safety, and the State Judicial Branch, August 13, 2002.

Follow-up to the State Assembly: Principles Document, provided by the Interagency Advisory Committee on Adult and Juvenile Correctional Treatment, August 13, 2002.

Presentation Materials on Probation, provided by Division of Probation Services, Judicial Department, August 13, 2002.

Colorado Probation Services Annual Report, provided by the Office of the State Court Administrator, August 13, 2002.

Analysis of Offender Substance Abuse Treatment Needs and the Availability of Treatment Services, distributed by the Interagency Advisory Committee on Adult and Juvenile Correctional Treatment, August 13, 2002.

John Inmann Work and Family Center Program Overview, provided by John Inmann Work and Family Center, August 13, 2002.

Community Reintegration - Work and Family Center Resources Compilation, provided by the Department of Corrections, August 13, 2002.

DOC Prison and Community Transition Programs, presentation materials provided by the DOC, August 13, 2002.

Pathways to Change: Research and Innovations in Women's Substance Abuse Programming, by Dr. Dani Rudkin, provided by Tooley Hall Women's Program, Community Education Centers, August 27, 2002.

Pathways to Change: Treatment Culture Description, by Dr. Dani Rudkin, provided by Tooley Hall Women's Program, Community Education Centers, August 27, 2002.

Comparison of Post-Conviction DNA Laws in other States, provided by the National Conference of State Legislatures, August 27, 2002.

Juvenile Direct Files, numbers listed by year, provided by Colorado District Attorneys Council, August 27, 2002.

Colorado Parole Statistics, provided by the Colorado Justice Criminal Reform Coalition, August 27, 2002.

Report Provided to the Task Force on Short-term Criminal Sentencing Issues:

Specific Proposals to Improve Mandatory Sentences, Andrew Guarino, Criminal Defense Bar, August 21, 2002.

Sentence Enhancers and Aggravators in Section 18-1.3-401 C.R.S.

Crimes with extraordinary mitigating circumstances, Section 18-1.3-401 (6). In imposing a sentence to incarceration, the court can conclude that extraordinary mitigating circumstances are present based on evidence at the sentencing hearing and in the presentence report. If the court finds such mitigating factors exist, the court may impose a sentence that is lesser than the minimum in the presumptive range.

Sentence-enhancing circumstances, Section 18-1.3-401 (9). The court must, if sentencing the defendant to incarceration, sentence the defendant to a term of at least the minimum in the presumptive range but not more than twice the maximum if it finds that any of the following circumstances are present:

- the defendant was charged with or on bond for a felony in a prior case and was convicted of a felony in the prior case;
- the defendant is under 18 and at the time of the felony was charged with or on bond for a prior offense what would be a felony if committed by an adult;
- the defendant was on deferred judgment and sentence for another felony;
- the defendant is under 18 and on bond after pleading guilty to a lesser offense when the original offense would be a felony if committed by an adult; or
- the defendant was on parole after having been adjudicated a delinquent child for an offense that would be a felony if committed by an adult.

Crimes with extraordinary aggravating circumstances, Section 18-1.3-401 (8) (a). The court must, if sentencing the defendant to incarceration, sentence the defendant to a term of at least the midpoint in the presumptive range but not more than twice the maximum if it finds that any of the following circumstances are present:

- defendant was convicted of a crime of violence;
- defendant was on parole for another felony;
- defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony;
- defendant was in prison or any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony; or
- defendant is under 18 and on probation for another offense that would be a felony if committed by an adult.

Crimes of violence, Section 18-1.3-406. A person convicted of a crime of violence must be sentenced to a term of incarceration of at least the midpoint in the presumptive range but not more than twice the maximum. Crimes of violence include the following list of crimes in which a person uses or possesses and threatens the use of a deadly weapon, or in which a person causes serious bodily injury or death to another:

- murder;
- first or second degree assault;
- kidnapping;
- sexual assault;
- aggravated robbery;
- first degree arson;
- first degree burglary;
- escape; or
- criminal extortion.

Crimes presenting an extraordinary risk of harm to society, Section 18-1.3-401 (10). In finding that certain crimes present an extraordinary risk of harm to society, the General Assembly has increased the maximum sentence for certain crimes. For crimes among the following list that are class 3 felonies, the maximum sentence in the presumptive range is increased by four years; for class 4 felonies, the maximum sentence is increased by two years; for class 5 felonies, the maximum sentence is increased by one year; and for class 6 felonies the maximum sentence is increased by six months:

- sex assault including first, second, and third degree sex assault as they existed prior to July 1, 2000;
- unlawful sexual contact;
- sex assault on a child;
- sex assault on a child by one in a position of trust;
- sex assault on a client by a psychotherapist;
- incest;
- aggravated incest;
- aggravated robbery;
- child abuse;
- unlawful distribution, manufacture, dispensing, sale, or possession of a controlled substance with intent to sell, distribute, manufacture, or dispense;
- any crime of violence; and
- stalking.

Crimes with extraordinary aggravating circumstances, Section 18-1.3-401 (6). In imposing a sentence to incarceration, the court can conclude that extraordinary aggravating circumstances are present based on evidence in the record of the sentencing hearing and the presentence report. If the court finds such aggravating factors exist, the court may impose a sentence which is greater than the maximum in the presumptive range.

*denotes this section also appears as another factor

CRIME-related factors

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-3-103(3)(b)	Second degree murder	F2	Sudden heat of passion provoked by act of intended victim	F3	
18-3-103(4)	Second degree murder	F2	Conviction under sub (1) – knowingly causes death	Sentenced pursuant to § 16-11-309 Minimum is midpoint of the presumptive range	
18-3-301(2)	First degree kidnapping	F1	Liberates victim alive prior to conviction	Eliminates possibility of death penalty	
18-3-301(3)	First degree kidnapping	F1	Liberates victim unharmed	F2	
18-3-302 (3)(a)(b)	Second degree kidnapping	F4	Kidnapped person is victim of (a) sexual assault, or (b) robbery	F2	
18-3-302(4)(a)	Second degree kidnapping	F4	(I) sell victim, (II) no sexual assault or robbery but deadly weapon used, (III) representation that def is armed with deadly weapon	F3	
18-3-302(4)(b)	Second degree kidnapping	F4	Conviction pursuant to sub(4) – see above	Sentence per 16-11-309 - Minimum is midpoint of the presumptive range	
18-3-304(2.5)	Violation of custody order	F5	Removes child from the country	F4	
18-3-305(2)	Enticement of a child	F4	Bodily injury to child	F3	
18-3-402(4)(a)	Sexual Assault	F4	Cause submission through application of physical force or violence	F3	
18-3-402(4)(b)	Sexual Assault	F4	Cause submission by threat of imminent death, SBI, extreme pain, or kidnapping	F3	
18-3-402(4)(c)	Sexual Assault	F4	Cause submission by threatening to retaliate in the future against the victim or another. Retaliate includes threats of kidnapping, death, SBI, extreme pain.	F3	

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-3-402(4)(d)	Sexual Assault	F4	Impair the victim's power to appraise or control conduct by employing drug, intoxicant or other means	F3	
18-3-402(5)(a)	Sexual Assault	F4	Aided by another person	F2 and mandatory midpoint sentence	
18-3-402(5)(b)	Sexual Assault	F4	Victim suffers SBI	F2 and mandatory midpoint sentence	
18-3-402(5)(c)	Sexual Assault	F4	Cause submission through use of real or simulated deadly weapon	F2 and mandatory midpoint sentence	The aggravating factors are found in 18-2-402.
18-3-404(2) & 18-3-402(4)(b)	Unlawful Sexual Contact	M1	Cause submission by threat of imminent death, SBI, extreme pain, or kidnapping	F4 and violent crime sentencing	The aggravating factors are found in 18-2-402.
18-3-404(2) & 18-3-402(4)(c)	Unlawful Sexual Contact	M1	Cause submission by threatening to retaliate in the future against the victim or another. Retaliate includes threats of kidnapping, death, SBI, extreme pain.	F4 and violent crime sentencing	The aggravating factors are found in 18-2-402.
18-3-404(2) & 18-3-402(4)(a)	Unlawful Sexual Contact	M1	Cause submission through application of physical force or violence	F4 and violent crime sentencing	
18-3-405(2)(a)	Sexual Assault on a Child	F4	Physical force used	F3 and violent crime sentencing	
18-3-405(2)(b)	Sexual Assault on a Child	F4	Cause submission by threat of imminent death, SBI, extreme pain, or kidnapping	F3 and violent crime sentencing	
18-3-405(2)(c)	Sexual Assault on a Child	F4	Cause submission by threatening to retaliate in the future against the victim or another. Retaliate includes threats of kidnapping, death, SBI, extreme pain.	F3 and violent crime sentencing	
18-3-405(2)(d)	Sexual Assault on a Child	F4	The offense is part of a pattern of sexual abuse	F3 and violent crime sentencing	
18-3-405.3(2)(b)	Sexual Assault on a Child by one in a Position of Trust	F4	The offense is part of a pattern of sexual abuse	F3 and violent crime sentencing	
18-3-412.5(2)(a)	Failure to Register as a Sex Offender	M1	Prior conviction was a felony, or had the factual basis of a felony	F6	
18-3-412.5(2)(a)* (also an offender-specific factor)	Failure to Register as a Sex Offender	M1	Prior conviction was a felony, or had the factual basis of a felony, and the defendant had a prior conviction for failure to register	F5	
18-4-102(3)	First degree arson	F3	By use of any explosive [Note: also listed as alternative element]	Sentence per 16-11-309 - Minimum is midpoint of the presumptive range	

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-4-103(2)	Second degree arson	M2	Damage \$100 or more	F4	
18-4-105(2)	Fourth degree arson	M3	Person endangered [Note: also listed as alternative element]	F4	
18-4-105(3)	Fourth degree arson	M3	Only property endangered and value of the property is \$100 or more	M2	
18-4-202 (3)	1° Burglary	F3	Property involved is a controlled substance within a pharmacy or similar	F2	
18-4-203 (2)	2° Burglary	F4	Burglary of a dwelling or objective is theft of controlled substance	F3	
18-4-204 (2)	3° Burglary	F5	Objective is theft of controlled substance	F4	
18-4-302	Aggravated Robbery	F-3	Convicted of Paragraph (1)(b): Knowingly wounds or strikes the person robbed or any other person with a deadly weapon or by the use of force, threats, or intimidation with a deadly weapon knowingly puts the person robbed or any other person in reasonable fear of death or bodily injury.	Sentence per 16-11-309 –Midpoint of the presumptive range to double the maximum of presumptive range	
18-4-303	Aggravated Robbery of Controlled Substances	F-3	In element of crime – additional element of taking a controlled substance as defined by 12-22-303(7) enhances Aggravated Robbery to F-2	Enhances F-3 Aggravated Robbery to F-2	
18-4-501 (1)	Criminal Mischief	M3	Aggregate damage > \$100< \$500	M2	
18-4-501 (1)	Criminal Mischief	M3	Aggregate damage >\$500 <\$15,000	F4	
18-4-501 (1)	Criminal Mischief	M3	Aggregate damage <\$15,000	F3	
18-4-504 (2) (a)	3° criminal trespass	1 petty offense	Premises are classified as agricultural land	M3	
18-4-504 (2)(b)	3° criminal trespass	1 petty offense	Premises are classified as agricultural land and the there was intent to commit a felony thereon	F5	
18-4-509	Defacing property		conviction	Revoke driver's license	
18-5-501 (2)	Criminal Mischief	M3	Underlying factual basis involves defacing property 18-4-509 (2)	Revoke driver's license	
18-5-503 (2)(a)	2° criminal trespass	M3	Premises are classified as agricultural land	M2	
18-5-503 (2)(b)	2° criminal trespass	M3	Premises are classified as agricultural land and the there was intent to commit a felony thereon	F4	The crime itself is an offense against an at-risk victim, so this was not placed in the victim-specific category.
18-6.5-103(2)(a)	Crimes Against At-Risk Victims	F6	Negligence results in death	F4	

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-6.5-103(2)(b)	Crimes Against At-Risk Victims	F6	Negligence results in serious bodily injury	F5	The crime itself is an offense against an at-risk victim, so this was not placed in the victim-specific category.
18-6.5-103(3)(a) & 18-3-202(2)(a)* (also victim-specific)	1° Assault on At-Risk Victim (Heat of Passion)	F3	Victim is an at-risk adult or juvenile and the defendant acts under a heat of passion	F4	This has both an enhancement-factor (at-risk victim) and a mitigating factor (heat of passion)
18-6.5-103(3)(b) & 18-3-203(2)(a)* (also victim-specific)	2° Assault on At-Risk Victim (Heat of Passion)	F4	Victim is an at-risk adult or juvenile and the defendant acts under a heat of passion	F5	This has both an enhancement-factor (at-risk victim) and a mitigating factor (heat of passion)
18-6.5-103(5)* (also in victim-specific)	Theft from an At-Risk Victim (value under \$500)	M2	Victim is an at-risk adult or at-risk juvenile, and some portion committed in the victim's presence	F5	
18-6.5-103(5)* (also in victim-specific)	Theft from an At-Risk Victim (\$500 or more)	F4	Victim is an at-risk adult or at-risk juvenile, and some portion committed in the victim's presence	F3	
18-6.5-103(7)(c) & 18-3-402(4)(a)* (also in victim-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses force	F3	There are two aggravators here, assaulting an at-risk victim is an F6
18-6.5-103(7)(c) & 18-3-402(4)(b)* (also in victim-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses a threat to cause death, serious bodily injury , extreme pain, or kidnapping	F3	There are two aggravators here, assaulting an at-risk victim is an F6
18-6.5-103(7)(c) & 18-3-402(4)(c)* (also in victim-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses a threat of retaliation in the future to cause death, serious bodily injury , extreme pain, or kidnapping	F3	There are two aggravators here, assaulting an at-risk victim is an F6
18-6.5-103(7)(d) & 18-3-405(2)(a)* (also victim-specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses force	F2	There are two enhancers here, assaulting an at-risk juvenile aggravates the crime to an F3.
18-6.5-103(7)(d) & 18-3-405(2)(b)* (also victim-specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses a threat to cause death, serious bodily injury , extreme pain, or kidnapping	F2	There are two enhancers here, assaulting an at-risk juvenile aggravates the crime to an F3.

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-6.5-103(7)(d) & 18-3-405(2)(c)* (also victim-specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses a threat of retaliation in the future to cause death, serious bodily injury , extreme pain, or kidnapping	F2	There are two enhancers here, assaulting an at-risk juvenile aggravates the crime to an F3.
18-6.5-103(7)(d) & 18-3-405(2)(d)* (also victim-specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant commits the offense as part of a pattern of abuse	F2	There are two enhancers here, assaulting an at-risk juvenile aggravates the crime to an F3.

NOTE: Not included in above is 18-3-106 – which appears to have two base classes depending on whether crime is defined under (1)(a) – F4 or (1)(b) – F3.

VICTIM-related factors

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-3-107(3)	First degree murder of a peace officer, etc.	F1	Victim is peace officer or firefighter engaged in performance of duties	Life without possibility of parole, or death penalty	18-3-107 is structured as a separate crime, but should be examined in this discussion as a victim-specific method of enhancing first degree murder.
18-3-405.3(2)(a)	Sexual Assault on a Child by One in a Position of Trust	F4	Victim is under 15 years old	F3	
18-6.5-103(3)(a)	1° Assault on At-Risk Victim	F3	Victim is an at-risk adult or at-risk juvenile	F2	
18-6.5-103(3)(a) & 18-3-202(2)(a)* (also crime-specific)	1° Assault on At-Risk Victim (Heat of Passion)	F3	Victim is an at-risk adult or juvenile and the defendant acts under a heat of passion	F4	This has both an enhancement-factor (at-risk victim) and a mitigating factor (heat of passion).
18-6.5-103(3)(b)	2° Assault on At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3	

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-6.5-103(3)(b) & 18-3-203(2)(a)* (also crime-specific)	2° Assault on At-Risk Victim (Heat of Passion)	F4	Victim is an at-risk adult or juvenile and the defendant acts under a heat of passion	F5	This has both an enhancement-factor (at-risk victim) and a mitigating factor (heat of passion).
18-6.5-103(3)(c)	3° Assault on At-Risk victim	M1	Victim is an at-risk adult or at-risk juvenile	F6	
18-6.5-103(4)	Robbery of an At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3 and mandatory sentence	
18-6.5-103(5)* (also in crime-specific)	Theft from an At-Risk Victim (value under \$500)	M2	Victim is an at-risk adult or at-risk juvenile, and some portion committed in the victim's presence	F5	
18-6.5-103(5)* (also in crime-specific)	Theft from an At-Risk Victim (\$500 or more)	F4	Victim is an at-risk adult or at-risk juvenile, and some portion committed in the victim's presence	F3	There is no enhancement of a theft \$15,000 or more.
18-6.5-103(5)* (also in crime-specific)	Theft from the Person of an At-Risk Victim	F5	Victim is an at-risk adult or at-risk juvenile	F4	
18-6.5-103(7)(a)	Sexual Assault of an At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3	There is no additional enhancement of other aggravating factors such as use of force or use of a weapon.
18-6.5-103(7)(c)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile	F6	
18-6.5-103(7)(c)	Unlawful Sexual Contact of an At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3	This is only a victim-specific enhancer as the elements of the crime make it an F4.
18-6.5-103(7)(c)	Unlawful Sexual Contact of an At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3	This is only a victim-specific enhancer as the elements of the crime make it an F4.
18-6.5-103(7)(c) & 18-3-402(4)(a)* (also in crime-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses force	F3	There are two enhancers here, use of force alone aggravates the crime to an F4

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-6.5-103(7)(c) & 18-3-402(4)(b)* (also in crime-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses a threat to cause death, serious bodily injury, extreme pain, or kidnapping	F3	There are two enhancers here, use of threat alone aggravates the crime to an F4
18-6.5-103(7)(c) & 18-3-402(4)(c)* (also in crime-specific)	Unlawful Sexual Contact of an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile and the defendant uses a threat of retaliation in the future to cause death, serious bodily injury, extreme pain, or kidnapping	F3	There are two enhancers here, use of threat of retaliation alone aggravates the crime to an F4
18-6.5-103(7)(d)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile	F3	
18-6.5-103(7)(d) & 18-3-405(2)(a)* (also crime specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses force	F2	There are two enhancers here, use of force alone aggravates the crime to an F3.
18-6.5-103(7)(d) & 18-3-405(2)(b)* (also crime specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses a threat to cause death, serious bodily injury, extreme pain, or kidnapping	F2	There are two enhancers here, use of threat alone aggravates the crime to an F3.
18-6.5-103(7)(d) & 18-3-405(2)(c)* (also crime specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant uses a threat of retaliation in the future to cause death, serious bodily injury, extreme pain, or kidnapping	F2	There are two enhancers here, use of threat of retaliation alone aggravates the crime to an F3.
18-6.5-103(7)(d) & 18-3-405(2)(d)* (also crime specific)	Sexual Assault on an At-Risk Juvenile	F4	Victim is an at-risk juvenile and the defendant commits the offense as part of a pattern of abuse	F2	There are two enhancers here, commission as part of a pattern of abuse alone aggravates the crime to an F3.

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-6.5-103(7)(e)	Sexual Assault on an At-Risk Victim by One in a Position of Trust	F4	Victim is an at-risk juvenile	F3	
18-6.5-103(7)(e)	Sexual Assault on an At-Risk Victim by One in a Position of Trust	F4	Victim is an at-risk juvenile who is under age 15	F2	
18-6.5-103(7)(f)	Aggravated Sex Assault on a Client by a Psychotherapist on an At-Risk Victim	F4	Victim is an at-risk adult or at-risk juvenile	F3	
18-6.5-103(7)(f)	Sex Assault on a Client by a Psychotherapist on an At-Risk Victim	M1	Victim is an at-risk adult or at-risk juvenile	F6	

OFFENDER-specific factors

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-3-305(2)	Enticement of a child	F4	Defendant has previous conviction for enticement, sexual assault on a child, or conspiracy or attempt for above	F3	
18-3-412(2)	Habitual Sex Offender Against Children		Prior conviction of a sexual offense against a child	Sentence at least three times the maximum in the presumptive range for the class of crime. Defendant cannot receive probation or suspended sentence.	

Statute No.	Title	Basic class of crime	Enhancement factor	Result	Comments
18-3-412.5(2)(a)* (also a crime-specific factor)	Failure to Register as a Sex Offender	M1	Prior conviction was a felony, or had the factual basis of a felony, and the defendant had a prior conviction for failure to register	F5	
18-4-202.1 (1)	Habitual Burglary Offenders		Convicted of 1° burglary, 1° burglary of drugs, 1° burglary of a controlled substance, or 2° burglary of a dwelling and previously convicted w/in 10 years of 1° burglary, 1° burglary of drugs, 1° burglary of a controlled substance, or 2° burglary of a dwelling	greater than maximum in the presumptive range, but not more than twice the maximum	
18-4-202.1 (2)	Habitual Burglary Offenders		Convicted of 1° burglary, 1° burglary of drugs, 1° burglary of a controlled substance, or 2° burglary of a dwelling and previously convicted of two or more felonies	16-13-101 (1.5)-three times the maximum presumptive range	

**MANDATORY SENTENCING PROVISIONS IN THE
COLORADO REVISED STATUTES**

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
16-11-309 (1)	Mandatory sentences for violent crimes. Any person convicted of a crime of violence ¹ shall be sentenced to a term of incarceration.	At least the mid point in the presumptive range, but not more than twice the maximum term.
16-13-101 (1)	Punishment for habitual criminals ("three strikes you're out"). A person who is convicted of a third class 1 or 2 felony or a third class 3 felony which is a crime of violence must be adjudged an habitual criminal. This provision does not apply to convictions for first or second degree burglary.	Life imprisonment. Such offender is ineligible for parole until serving at least 40 calendar years.
16-13-101 (1.5)	Punishment for habitual criminals ("little habitual"). A person convicted of a class 1, 2, 3, 4, or 5 felony who, within ten years of the date of the commission of the offense, has twice previously been convicted of a felony must be adjudged an habitual criminal.	Three times the maximum of the presumptive range for the class of felony for which the person is convicted.
16-13-101 (2)	Punishment for habitual criminals ("big habitual"). A person convicted of a fourth felony, regardless of the felony class, must be adjudged an habitual criminal.	Four times the maximum of the presumptive range for the class of felony for which the person is convicted.
16-13-101 (2.5)	Punishment for habitual criminals ("bigger habitual"). Any person convicted under the "big habitual" statute who is subsequently convicted of a felony which is a crime of violence must be sentenced to a term of imprisonment.	Life imprisonment. Such offender is ineligible for parole until serving at least 40 calendar years.
16-13-804 (1) (a)	Lifetime supervision of sex offenders — indeterminate sentence. The district court having jurisdiction shall sentence a sex offender to the custody of the DOC.	Indeterminate term of at least the minimum of the presumptive range for the level of offense committed and a maximum of the sex offender's natural life.
16-13-804 (1) (b)	Lifetime supervision of sex offenders — indeterminate sentence. When a sex offender commits a sex offense constituting a crime of violence, the district court shall sentence the sex offender to the custody of the DOC.	Indeterminate term of at least the midpoint in the presumptive range for the level of offense committed and a maximum of the sex offender's natural life.
16-13-804 (1) (c)	Lifetime supervision of sex offenders — indeterminate sentence. If a sex offender commits a sex offense making him or her eligible for sentencing as a habitual sex offender against children, the district court shall sentence the sex offender to the custody of the DOC.	Indeterminate term of at least three times the upper limit of the presumptive range for the level of offense committed and a maximum of the sex offender's natural life.
16-13-804 (1) (d)	Lifetime supervision of sex offenders — indeterminate sentence. If a sex offender commits a sex offense and the offender had notice, prior to committing the offense, that he or she had tested positive for HIV, the district court shall sentence the sex offender to the custody of the DOC.	Indeterminate term of at least three times the upper limit of the presumptive range for the level of offense committed and a maximum of the sex offender's natural life.

¹ Any crime against an at-risk adult or at-risk juvenile; murder; first or second degree assault; kidnapping, sexual assault; aggravated robbery; first degree arson; first degree burglary; escape; or criminal extortion. "Crime of violence" also includes any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
18-1-105 (1) (b) (IV)	Felonies classified — presumptive penalties. If a person is convicted of first or second degree assault and the victim is a peace officer or firefighter engaged in the performance of his or her duties, the court shall sentence the person to a term of imprisonment.	Class 3 felony — 4 to 12 years Class 4 felony — 2 to 6 years Class 5 felony — 1 to 3 years Class 6 felony — 1 yr to 18 mos
18-1-105 (9) (d) (I)	Felonies classified — presumptive penalties. If a defendant is convicted of the class 2 or class 3 felony crime of child abuse, the court shall sentence the defendant to a term of incarceration.	At least the midpoint in the presumptive range but not more than twice the maximum term authorized for the punishment of that class felony.
18-1-105 (9) (e) (I)	Felonies classified — presumptive penalties. If a defendant is convicted of the class 2 felony of first degree sexual assault the commission of which offense occurs prior to November 1, 1998, the court shall sentence the defendant to a term of incarceration.	At least the midpoint in the presumptive range but not more than twice the maximum term authorized for the punishment of that class felony.
18-1-105 (9) (e.5)	Felonies classified — presumptive penalties. If a defendant is convicted of the class 2 felony of first degree sexual assault, the commission of which offense occurs after November 1, 1998, the court shall sentence the defendant to a term of incarceration.	Indeterminate sentence of at least the midpoint in the presumptive range for the punishment of that class of felony up to the defendant's natural life.
18-1-105 (9) (g)	Felonies classified — presumptive penalties. If a defendant is convicted of the class 3 felony or class 4 felony vehicular homicide, and while committing vehicular homicide, the defendant was in immediate flight from the commission of another felony, the court shall sentence the defendant to a term of incarceration.	At least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of the class of felony vehicular homicide of which the defendant is convicted.
18-1-106 (1.5) (a)	Misdemeanors classified — penalties. If a defendant is convicted of assault in the third degree (class 1 misdemeanor) and the victim is a peace officer or firefighter engaged in the performance of his or her duties, the court shall sentence the defendant to a term of imprisonment.	Greater than the maximum sentence but no more than twice the maximum sentence.
18-1-106 (6)	Misdemeanors classified — penalties. When a defendant is convicted of third degree assault (class 1 misdemeanor), the court shall sentence the defendant to a term of imprisonment if the court finds that: the victim was pregnant at the time of the commission of the offense; and the defendant knew or should have known that the victim was pregnant; and the underlying factual basis of the offense included an act of domestic violence.	At least six months but not longer than the maximum sentence authorized for the offense.
18-3-202 (1) (f)	Assault in the first degree. When a person commits first degree assault while lawfully confined or in custody as a result of being charged with or convicted of a crime, or as a result of being charged as a delinquent or adjudicated as a delinquent, and with intent to cause serious bodily injury to a person employed by or under contract with a detention facility or to a person employed by the division of youth services, and he threatens with a deadly weapon a person engaged in the performance of his or her duties, a sentence imposed shall be mandatory.	Class 3 felony — 4 to 12 years Class 5 felony — 1 to 3 years
18-3-405 (3)	Sexual assault on a child. Sexual assault on a child when the actor applies force against the victim or commits the offense as part of a pattern of sexual abuse (class 3 felony).	At least the mid point in the presumptive range but not more than twice the maximum term.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
18-3-405.3 (4)	Sexual assault on a child by one in a position of trust. Sexual assault on a child by one in a position of trust if the actor commits the offense as part of a pattern of sexual abuse (class 3 felony).	At least the mid point in the presumptive range but not more than twice the maximum term.
18-3-412 (2)	Habitual sex offenders against children. A person convicted of an unlawful sexual offense against children for a second or subsequent time when the second or subsequent offense is a felony must be adjudged an habitual sex offender against children.	At least three times the upper limit of the presumptive range for the class of felony for which the offender was convicted. If the second or subsequent unlawful sexual offense for which a defendant is convicted is a misdemeanor, the sentence shall be at least three times the maximum sentence for that class misdemeanor.
18-3-412.5 (4) (b)	Sex offenders - duty to register - penalties. Failure to register as a sex offender (class 2 misdemeanor). Failure to register as a sex offender for a second or subsequent offense (class 6 felony).	Ninety-day mandatory minimum sentence to jail. One-year mandatory minimum sentence to the DOC.
18-3-412.5 (4)(c) (I)	Sex offenders — duty to register — penalties. Failure by a juvenile to register as a sex offender that would constitute a felony if committed by an adult.	Adjudication for the delinquent act of failure to register requires a mandatory 45-day mandatory minimum detention sentence. Adjudication for a second or subsequent adjudication requires placement or commitment out of the home for at least one year.
18-3-412.5 (4) (c) (II)	Sex offenders — duty to register — penalties. Failure by a juvenile to register as a sex offender that would constitute a misdemeanor if committed by an adult.	Thirty-day mandatory minimum detention sentence. Adjudication for a second or subsequent offense requires a 45-day mandatory minimum detention sentence.
18-3-415.5 (5) (b)	Acquired immune deficiency syndrome testing for persons charged with certain sexual offenses — mandatory sentencing. When any adult or juvenile is ordered by the court to submit to an HIV test after being charged with a sexual offense, and the person tested knew of his or her HIV infection prior to the date the offense was committed, the judge shall sentence the person to a mandatory term of incarceration.	At least three times the upper limit of the presumptive range for the level of offense committed up to the remainder of the person's natural life.
18-4-413 (2)	Mandatory sentencing for repeated felony theft from a store. When any person is convicted of felony theft, and the felony theft was from a store, and the person, within the preceding four years, was twice convicted of felony theft and each felony theft was from a store, the court shall sentence the defendant to incarceration.	At least the minimum term provided for the offense.
18-6-801 (7)	Domestic violence — sentencing. If a person is adjudged a habitual domestic violence offender (three prior convictions for offenses, the underlying basis of which were found to include domestic violence), the court shall sentence the person to a term of incarceration.	The presumptive range for a class 5 felony (1 to 3 years imprisonment).
18-8-208 (1)	Escapes. Knowingly escaping while in custody or confinement following a conviction for a class 1 or 2 felony (class 2 felony).	Eight-year mandatory minimum sentence to the DOC.
18-8-208 (2)	Escapes. Knowingly escaping while in custody or confinement following a conviction for a class 3, class 4, class 5, or class 6 felony (class 3 felony).	Four-year mandatory minimum sentence to the DOC.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
18-8-208 (3)	Escapes. Knowingly escaping from custody or confinement while being held for or charged but not convicted of a felony (class 4 felony).	Two-year mandatory minimum sentence to the DOC.
18-8-208 (4)	Escapes. Knowingly escaping from custody or confinement following a conviction for a misdemeanor or petty offense or a violation of a municipal ordinance (class 3 misdemeanor).	Mandatory sentence to county jail with no minimum sentence and a maximum sentence of six months.
18-8-208 (5)	Escapes. Knowingly escaping from custody or confinement while being held or charged but not convicted of a misdemeanor or petty offense or violation of a municipal ordinance (class 1 petty offense).	Mandatory sentence to county jail with no minimum sentence.
18-8-208 (6) (a)	Escapes. Knowingly escaping while being confined pursuant to a commitment for insanity or incompetency after being charged with a misdemeanor (class 1 misdemeanor).	Six-month mandatory minimum sentence to county jail.
18-8-208 (6) (b)	Escapes. Knowingly escaping while being confined pursuant to a commitment for insanity or incompetency after being charged with a felony if the person does not leave the State of Colorado (class 1 misdemeanor).	Six-month mandatory minimum sentence to county jail.
18-8-208 (6) (c)	Escapes. Knowingly escaping while being confined pursuant to a commitment for insanity or incompetency after being charged with a felony if the person leaves the State of Colorado (class 5 felony).	One-year mandatory minimum sentence to the DOC.
18-8-208 (8)	Escapes. Knowingly escaping while in custody or confinement pursuant to the provisions regarding fugitives and extradition (class 5 felony).	One-year mandatory minimum sentence to the DOC.
18-8-208.1 (1)	Attempt to escape. Knowingly attempting to escape from custody or confinement following conviction of a felony (class 4 felony).	Mandatory two- to six-year sentence to the DOC.
18-8-208.1 (2)	Attempt to escape. Knowingly attempting to escape from custody or confinement while being held for or charged with but not convicted of a felony (class 5 felony).	Mandatory one- to three-year sentence to the DOC.
18-8-208.1 (3)	Attempt to escape. Knowingly attempting to escape from custody or confinement following conviction of a misdemeanor or petty offense (unclassified misdemeanor).	Mandatory two- to four-month sentence to county jail.
18-8-208.1 (4)	Attempt to escape. Knowingly attempting to escape from custody or confinement while in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense (unclassified petty offense).	Mandatory two- to four-month sentence to county jail.
18-8-212 (1)	Violation of bail bond conditions. A person who is released on bail bond of any kind and either before, during, or after release is charged with any felony arising from the conduct for which he was arrested commits a class 6 felony if he knowingly fails to appear for trial or other proceedings in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.	At least one year imprisonment. Such person is not eligible for probation or for a suspended sentence.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
18-8-212 (2)	Violation of bail bond conditions. A person who is released on bail bond of any kind and either before, during, or after release is charged with a misdemeanor arising from the conduct for which he was arrested commits a class 3 misdemeanor if he knowingly fails to appear for trial or other proceedings in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.	At least 6 months imprisonment. Such person is not eligible for probation or for a suspended sentence.
18-9-202 (2) (b)	Cruelty to animals. A second or subsequent offense of cruelty to animals (class 1 misdemeanor).	Mandatory six- to 18-month sentence to county jail.
18-12-109 (5)	Possession, use, or removal of explosives or incendiary devices. Removing or causing to be removed or carrying away any explosive or incendiary device from the premises where said explosive or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent of the lawful possessor (class 4 felony).	Two-year mandatory minimum sentence to the DOC.
18-18-405 (3) (a) (I)	Unlawful distribution, manufacturing, dispensing, sale, or possession. Knowingly manufacturing, dispensing, selling, distributing, or possessing, including intent to commit any of the prior, inducing, attempting to induce, or conspiring to commit any of the prior, of at least 25 grams or one ounce but less than 450 grams of any material, compound, mixture, or preparation containing a schedule I or schedule II controlled substance.	Mandatory sentence to the DOC of at least the minimum in the presumptive range for the felony of conviction.
18-18-405 (3) (a) (II)	Unlawful distribution, manufacturing, dispensing, sale, or possession. Knowingly manufacturing, dispensing, selling, distributing, or possessing, including intent to commit any of the prior, inducing, attempting to induce, or conspiring to commit any of the prior, of at least 450 grams or one pound but less than 1,000 grams of any material, compound, mixture, or preparation containing a schedule I or schedule II controlled substance.	Mandatory sentence to the DOC of at least the midpoint but not more than twice the maximum in the presumptive range for the felony of conviction.
18-18-405 (3) (a) (III)	Unlawful distribution, manufacturing, dispensing, sale, or possession. Knowingly manufacturing, dispensing, selling, distributing, or possessing, including intent to commit any of the prior, inducing, attempting to induce, or conspiring to commit any of the prior, of at least 1,000 grams or one kilogram or more of any material, compound, mixture, or preparation containing a schedule I or schedule II controlled substance.	Mandatory sentence to the DOC of a term greater than the maximum but not more than twice the maximum in the presumptive range for the felony of conviction.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
18-18-405 (5)	<p>Unlawful distribution, manufacturing, dispensing, sale, or possession. Manufacturing, dispensing, selling, distributing, or possessing, including intent to commit any of the prior, of any schedule I or schedule II controlled substance or flunitrazepam twice or more within a period of six months without having been placed in jeopardy for the prior offenses and the aggregate amount of the controlled substance or flunitrazepam involved equals or exceeds 25 grams.</p>	Mandatory sentence to the DOC of: 1) at least the minimum in the presumptive range for the felony of conviction for at least 25 grams but less than 450 grams; 2) at least the midpoint but no more than twice the maximum in the presumptive range for the felony of conviction for at least 450 grams but less than 1,000 grams; or 3) a term greater than the maximum but not more than twice the maximum in the presumptive range for the felony of conviction for 1,000 grams or more.
18-18-407 (1)	<p>Special offender (drugs). An offender is a special offender upon conviction of a felony in which any one or more of the following extraordinary aggravating circumstances exist: a) a prior conviction for two or more offenses involving the manufacture, sale, dispensing, or distribution of controlled substances; b) the offense was part of a pattern or manufacturing, sale, dispensing, or distributing controlled substances and constituted a substantial source of that person's income and in which that person manifested special skill or expertise; c) the felony was committed or was in furtherance of a conspiracy with one or more persons to engage in a pattern of manufacturing, sale, dispensing, or distribution of controlled substances and the defendant did or agreed that he would initiate, organize, plan, finance, direct, manage, or supervise all or part of the conspiracy or give or receive a bribe or use force in connection with such manufacture, sale, dispensing, or distribution; d) the defendant unlawfully introduced, distributed, or imported any schedule I or II controlled substance into Colorado; e) the defendant unlawfully sold, dispensed distributed, possessed, or imported into Colorado more than 100 pounds of marihuana or marihuana concentrate; f) the defendant used, displayed, possessed, or had available for use a deadly weapon; g) the defendant solicited, induced, encouraged, intimidated, employed, hired, or procured a child to act as an agent to assist in the unlawful distribution, manufacturing, dispensing, sale, or possession for the purposes of sale any controlled substance; h) the defendant engaged in a continuing criminal enterprise by violating any provision of the Uniform Controlled Substances Act of 1992 and such violation is part of a continuing series of two or more violations of the Act on separate occasions.</p>	Eight- to 48-year mandatory sentence to the DOC.
18-18-407 (2) (a)	<p>Special offender (drugs). Selling, distributing, or possessing with intent to distribute any controlled substance to any person either within or upon the grounds of any public or private elementary, middle, junior high, or high school, vocational school, or public housing development, or within 1,000 feet of the perimeter or any such school or public housing development grounds, or any street, alley, parkway, sidewalk, public park, playground, or other area or premises that is accessible to the public, or within any private dwelling that is accessible to the public, or in any school bus while such school bus is engaged in the transportation of students of any public or private elementary, middle, junior, or high school.</p>	Eight- to 48-year mandatory sentence to the DOC.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
19-2-516 (1) (a) (l) 19-2-908 (1) (a)	Mandatory juvenile offender. A juvenile is a mandatory sentence offender if he or she: has been adjudicated a juvenile delinquent twice; or has been adjudicated a juvenile delinquent and if his or her probation has been revoked for a delinquent act; and is subsequently adjudicated a juvenile delinquent; or has probation revoked for a delinquent act.	The court shall place or commit a juvenile mandatory sentence offender in an out of home placement for at least one year unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate. If the person adjudicated as a mandatory sentence offender is 18 or older at sentencing, the court may sentence the person to the county jail or to a community corrections facility for a period of up to 2 years if such person has been adjudicated a mandatory sentence offender for acts committed prior to the person's 18th birthday.
19-2-516 (2) 19-2-908 (1) (b)	Repeat juvenile offender. A juvenile is a repeat juvenile offender if he or she has been previously adjudicated a juvenile delinquent and is adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, or if his or her probation is revoked for a delinquent act that constitutes a felony.	The court shall sentence any juvenile adjudicated as a repeat juvenile offender out of the home for not less than one year, unless the court finds that an alternative sentence or a commitment of less than one year out of the home would be more appropriate. If the person adjudicated as a repeat juvenile offender is 18 years of age or older at sentencing, the court may sentence the person to the county jail or to a community corrections facility for a period of up to two years if such person has been adjudicated a repeat juvenile offender for a act committed prior to the person's 18th birthday.
19-2-516 (3) 19-2-901 (1) (c)	Violent juvenile offender. A juvenile is a violent juvenile offender if he or she is adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence as defined in Section 16-11-309 (2).	The court shall place or commit a violent juvenile offender out of the home for not less than one year, except when the juvenile is ten years of age or older but less than 12 years of age, and when the court finds that an alternative sentence or commitment of less than one year out of the home would be more appropriate. If the person adjudicated as a repeat juvenile offender is 18 years of age or older at sentencing, the court may sentence the person to the county jail or to a community corrections facility for a period of up to two years if such person has been adjudicated a repeat juvenile offender for a act committed prior to the person's 18th birthday.
19-2-516 (4) 19-2-601 (5) (a) (l)	Aggravated juvenile offender. A juvenile offender is an aggravated juvenile offender if he or she is: adjudicated a juvenile delinquent for an act that constitutes a class 1 or class 2 felony or if his or her probation is revoked for a delinquent act that constitutes a class 1 or class 2 felony; or adjudicated a juvenile delinquent for a delinquent act that constitutes a crime of violence (16-11-309) or has his or her probation revoked for a delinquent act that constitutes a crime of violence; or adjudicated a juvenile delinquent or if his or her probation is revoked for a delinquent act that constitutes felonious unlawful sexual behavior, incest, or aggravated incest.	For an offense that would constitute a class 2 felony if committed by an adult, the court shall commit the juvenile to the Department of Human Services for a determinate period of at least 3 but not more than 5 years. For an offense that would constitute a class 1 felony if committed by an adult, the court shall commit the juvenile to the Department of Human Services for a determinate period of at least 3 but not more than 7 years.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
19-2-911 (2)	Sentencing — alternative services — detention. In the case of a juvenile who has been adjudicated a juvenile delinquent for the commission of one of the following crimes, the court shall sentence the juvenile to detention: a crime of violence (16-11-309); use, possession, and threatened use of a firearm during the commission of a felony against a person; possession of a dangerous or illegal weapon; possession of a defaced firearm; unlawfully carrying a concealed weapon; unlawfully carrying a concealed weapon on school, college, or university grounds; prohibited use of weapons; illegal discharge of a firearm; or illegal possession of a handgun by a juvenile.	The court shall sentence the juvenile to a minimum mandatory period of detention of not fewer than five days.
33-13-108.1 (12) (a) 33-13-108.1 (12) (b)	Operating a motorboat or sailboat while under the influence. Operating a motorboat or sailboat while under the influence of alcohol, any controlled substance, any other drug rendering a person incapable of safely operating a motorboat or sailboat, or any combination of alcohol, any other controlled substance, or any other drug (unclassified misdemeanor).	Five days to 180 days in county jail. The minimum jail sentence is mandatory. For a second or subsequent violation within five years of a prior violation, 60 days to one year in county jail. The minimum jail sentence is mandatory.
33-13-108.2 (2)	Operating a motorboat or sailboat while the privilege to operate is suspended. Operating a motorboat or sailboat when a court-ordered suspension of motorboat or sailboat operating privileges is in effect for a conviction of an alcohol- or drug-related operating offense (unclassified misdemeanor).	Three day to 180 day imprisonment in county jail. The minimum jail sentence is mandatory. For a second or subsequent conviction, 90 days to 1 year in county jail. The minimum jail sentence is mandatory.
35-50-110 (2)	Quarantine established — enforced — penalty. Violation of any of the rules or regulations made by the state agricultural commission regarding quarantines for the purpose of preventing the spread of any infections or contagious disease among the livestock within the state, or moving or causing to be moved any single head or any herd of cattle, horses, sheep, goats, swine, poultry, or other livestock from a quarantined area in violation of a quarantine order (unclassified misdemeanor).	Imprisonment in the county jail for 90 days to one year. For a second or subsequent conviction, the sentence to imprisonment is mandatory.
41-2-102 (7) (a) (I) 41-2-102 (7) (a) (II)	Operating an aircraft under the influence — operating an aircraft with excessive alcoholic content. Operating any aircraft in this state while under the influence of alcohol or one or more drugs, or a combination of both alcohol and one or more drugs (unclassified misdemeanor).	Five days to one year imprisonment in the county jail. The minimum sentence is mandatory. Ninety days to one year imprisonment for a second within five years of a prior conviction. The minimum jail term is mandatory but the court may suspend up to 83 days of the jail term if the offender completes an education and treatment program.
42-2-138 (1) (a)	Driving under restraint. Driving a motor vehicle or off-highway vehicle with knowledge that the person's license is under restraint for any reason other than conviction of an alcohol-related driving offense (unclassified misdemeanor).	Five days to six months imprisonment in the county jail. The minimum sentence to jail is mandatory.
42-2-138 (1) (d) (I)	Driving under restraint. Driving a motor vehicle or off-highway vehicle with knowledge that the person's license is under restraint solely or partially because of a conviction of an alcohol- or drug-related driving offense (unclassified misdemeanor).	Thirty days to one year imprisonment in the county jail. The minimum sentence to jail is mandatory. Ninety days to two years in jail for a second or subsequent offense. The minimum jail term is mandatory.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
42-2-206 (1) (a) (II)	Driving after revocation prohibited. Operating any motor vehicle while the revocation of the department of revenue remains in effect (class 1 misdemeanor).	Mandatory minimum term of imprisonment in the county jail for 30 days. The court may suspend all or a portion of the mandatory jail sentence if the defendant successfully completes no less than 40 hours and no more than 300 hours of useful public service. The court is prohibited from sentencing such defendants to probation.
42-4-1301 (7) (a) (I) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. Driving any vehicle while under the influence of alcohol or one or more drugs, or a combination of both alcohol and one or more drugs (DUI); operating a motor vehicle while a habitual user of controlled substances; driving any vehicle when a person's blood alcohol content is 0.10 or within two hours after driving (unclassified misdemeanors).	Five days to one year imprisonment in the county jail. The minimum jail term is mandatory.
42-4-1301 (7) (a) (II) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. A conviction for operating a motor vehicle while DUI, DUI per se, or an habitual user when there has been a prior conviction for DUI, DUI per se, or an habitual user, or for vehicular homicide (class 3 felony), vehicular assault (class 4 felony), or driving under restraint (unclassified misdemeanor), or DUI per se when the person's blood alcohol content was 0.20 or more at the time of driving or within two hours after driving.	Ninety days to one year imprisonment in the county jail. The minimum jail term is mandatory, but the court may suspend up to 80 days of the jail term if the offender completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from using alcohol for a period of one year from the date of sentencing.
42-4-1301 (7) (a) (IV) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. A conviction for DUI, DUI per se, or habitual user when there has been a prior conviction for driving a vehicle when a person has consumed alcohol or one or more drugs, or a combination of both alcohol and one or more drugs, which alcohol, or drugs, or combination affects the person to the slightest degree so that the person is less able than the person ordinarily would have been, mentally or physically, to exercise clear judgment, sufficient physical control, or due care in the safe operation of a vehicle (DWAI) (unclassified misdemeanor).	Seventy days to one year imprisonment in the county jail. The minimum jail term is mandatory but the court may suspend up to 63 days of the jail term if the offender completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from using alcohol for a period of one year from the date of sentencing.
42-4-1301 (7) (b) (I) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. A conviction for DWAI.	Two days to 180 days imprisonment in the county jail. The minimum jail term is mandatory but the court may suspend the jail term if the offender completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from using alcohol for a period of one year from the date of sentencing.
42-4-1301 (7) (b) (II) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. A second or subsequent conviction for DWAI.	Forty-five days to one year imprisonment. The minimum jail term is mandatory but the court may suspend up to 40 days of the jail term if the offender completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from using alcohol for a period of one year from the date of sentencing.

C.R.S. CITATION	ELEMENTS OF OFFENSE	MANDATORY SENTENCE
42-4-1301 (7) (b) (III) (A)	Driving under the influence — driving while impaired — driving with excessive alcoholic content. A conviction for DWAI when there has been a prior conviction for DUI, DUI per se, or an habitual user, or vehicular homicide (class 3 felony), vehicular assault (class 4 felony), or driving under restraint (unclassified misdemeanor).	Sixty days to one year imprisonment. The minimum jail term is mandatory but the court may suspend up to 54 days of the jail term if the offender completes an appropriate level I or level II alcohol and drug driving safety education or treatment program and abstains from using alcohol for a period of one year from the date of sentencing.
42-7-422	No proof when proof required. Driving a motor vehicle when a driver's license has been suspended, cancelled, or revoked and restoration or issuance of a new license is contingent upon furnishing proof of financial responsibility (unclassified misdemeanor)	Five days to six months imprisonment in the county jail. The minimum sentence is mandatory but the five days need not be served consecutively and may be served during any 30-day period. The minimum sentence is mandatory except where the defendant established that he or she had to drive the motor vehicle because of an emergency.

**History of Mandatory Sentencing Provisions for Selected Habitual Offender,
Escape, Attempted Escape, and Violation of Bail Bond Statutes**

C.R.S. Citation	Elements of Offense	Mandatory Sentence	Legislative History	Comments
16-13-101 (1.5)	<i>Punishment for habitual criminals ("little habitual").</i> A person convicted of a class 1, 2, 3, 4, or 5 felony who, within ten years of the date of the commission of the offense, has twice previously been convicted of a felony must be adjudged an habitual criminal.	Three times the maximum of the presumptive range for the class of felony for which the person is convicted.	The mandatory sentencing provision was originally enacted in SB 26 during the 1929 legislative session (L.29, p.310, §2). The maximum sentence was originally three times the maximum; was changed to 25 to 50 years in 1976; and was changed back to three times the maximum in 1993.	The statute does not differentiate between violent and nonviolent prior offenses that make an offender eligible for the habitual criminal sentence.
16-13-101 (2)	<i>Punishment for habitual criminals ("big habitual").</i> A person convicted of a fourth felony, regardless of the felony class, must be adjudged an habitual criminal.	Four times the maximum of the presumptive range for the class of felony for which the person is convicted.	The mandatory sentencing provision was originally enacted in SB 26 during the 1929 legislative session (L.29, p.310, §3). The maximum sentence was originally life and was changed to four times the maximum in 1993.	The statute does not differentiate between violent and nonviolent prior offenses that make an offender eligible for the habitual criminal sentence.
18-8-208 (1)	<i>Escapes.</i> Knowingly escaping while in custody or confinement following a conviction for a class 1 or 2 felony (class 2 felony).	Eight-year mandatory minimum sentence to the DOC.	The escape statute was first enacted in SB 55-70 (L.55, p.284, §1) and included a mandatory sentencing provision, attempted escape provisions, and consecutive sentencing provisions. The current version of the crime of escape was first codified in 1971 (L.71, p.459, §1) without mandatory sentencing provisions, attempt provisions, and with a separate section for consecutive sentence provisions (see 18-8-209, C.R.S, below). A new section with mandatory sentencing provisions was adopted in HB 95-1070 (L.95, p.1255, §16).	Pursuant to Section 18-8-208 (9), all minimum sentences for all crimes of escape are mandatory and adult offenders are ineligible for probation and are ineligible for a suspended sentence.
18-8-208 (2)	<i>Escapes.</i> Knowingly escaping while in custody or confinement following a conviction for a class 3, class 4, class 5, or class 6 felony (class 3 felony).	Four-year mandatory minimum sentence to the DOC.	Same as above.	Same as above.

C.R.S. Citation	Elements of Offense	Mandatory Sentence	Legislative History	Comments
18-8-208.1 (1)	Attempt to escape. Knowingly attempting to escape from custody or confinement following conviction of a felony (class 4 felony).	Mandatory two-year sentence to the DOC.	Attempted escape provisions were first included in the escape statute originally adopted in 1955 (see 18-8-208 (1), C.R.S., above). Attempted escape provisions were taken out of the escape statute and included in the new criminal attempt law adopted in SB 63-36 (L.63, p.331, §27). A separate attempted escape statute, including a mandatory sentence provision, was adopted in HB 76S-1007 (L.76S, p.10, §2).	Pursuant to Section 18-8-208.1 (5) C.R.S., the minimum sentence for attempt to escape is mandatory and adult offenders are ineligible for probation and are ineligible for a suspended sentence.
18-8-209	Consecutive sentences. Any sentence imposed following conviction of an escape offense under Section 18-8-208, C.R.S., must run consecutively with any sentence which the offender was serving at the time of the escape (consecutive sentencing provisions for attempted escape are included in the attempted escape statute, see above).	N/A	Consecutive sentence provisions for escape were included in the original escape statute adopted in SB 55-70 (L.55, p.284, §1). A separate consecutive sentences statute was adopted in 1971 (L.71, p.459, §1) and is current law in substantively the same form.	
18-8-212 (1)	Violation of bail bond conditions. A person who is released on bail bond of any kind and either before, during, or after release is charged with any felony arising from the conduct for which he was arrested commits a class 6 felony if he knowingly fails to appear for trial or other proceedings in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.	At least one year imprisonment. Such person is not eligible for probation or for a suspended sentence.	The violation of bail bond law with mandatory sentence provisions was adopted in SB 63-001 (L.63, p.590, §1) and created the unclassified misdemeanor offense of failing to appear in court to avoid trial and prosecution for any criminal violation. The provision was re-written in SB 79-363 (L.79, p.663, §3) to create separate offenses for those on bond for felony offenses and those on bond for misdemeanor offenses.	This subsection (1) was a class 5 felony when adopted in 1979 but became a class 6 felony in HB 89-246 (L.89, p.839, §80).

C.R.S. Citation	Elements of Offense	Mandatory Sentence	Legislative History	Comments
18-8-212 (2)	<p>Violation of bail bond conditions. A person who is released on bail bond of any kind and either before, during, or after release is charged with a misdemeanor arising from the conduct for which he was arrested commits a class 3 misdemeanor if he knowingly fails to appear for trial or other proceedings in the case in which the bail bond was filed or if he knowingly violates the conditions of the bail bond.</p>	<p>At least 6 months imprisonment. Such person is not eligible for probation or for a suspended sentence.</p>	<p>Same as above.</p>	



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Appendix E

Room 029 State Capitol, Denver, CO 80203-1784
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MEMORANDUM

Pursuant to section 24-72-202(6.5)(b), research memoranda and other final products of Legislative Council Staff research that are not related to proposed or pending legislation are considered public records and are subject to public inspection. If you think additional research is required and this memorandum is not a final product, please call the Legislative Council Librarian at (303) 866-4011 by August 27, 2002.

August 20, 2002

TO: Representative Peter Groff

FROM: Carl Jarrett, Principal Analyst, and Colette S. Peters, Research Associate, 303-866-3521

SUBJECT: Circumstances Under Which a District Attorney May Charge a Juvenile as an Adult

This memorandum responds to your request for information on the circumstances under which juveniles can be charged as adults in district court by a district attorney. Colorado law provides that juveniles can be tried as adults in district court when a district attorney files criminal charges against the juvenile in district court, or when a juvenile court transfers a case from juvenile court to district court. This memorandum lists the circumstances under which juveniles can be charged as adults and transferred from juvenile court to district court. The memorandum also lists the possible sentences when such juveniles are convicted.

Direct File in District Court

Colorado law allows district attorneys to bypass the juvenile court system and charge juveniles as adults in district court for certain crimes. A district attorney may charge a juvenile as an adult when:

- the juvenile is 14 years or older and is alleged to have committed a class 1 or class 2 felony;
- the juvenile is 14 years of age or older and is alleged to have:

- N committed a felony that is a crime of violence²;
 - N committed a felony offense relating to firearms and weapons except for the possession of a handgun by a juvenile;
 - N used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person; or
 - N committed vehicular homicide, vehicular assault, or felonious arson;
- the juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is 16 or older, and has allegedly committed a class 3 felony;
 - the juvenile is 14 or older, has allegedly committed a delinquent act that constitutes a felony, and has previously been subject to proceedings in district court resulting from a direct file or a transfer from juvenile court to district court; except that if the juvenile was found not guilty in district court for the prior felony, the subsequent charge must be remanded back to juvenile court; or
 - the juvenile is 14 or older, has allegedly committed a delinquent act constituting a felony, and is determined to be an "habitual juvenile offender."

Sentencing juveniles who are convicted as adults. Colorado law dictates how judges must sentence juveniles who are convicted as adults. District court judges must sentence such juveniles as follows:

- as an adult (to the Department of Corrections (DOC)); or
- to the Youthful Offender System (YOS) in the DOC if the juvenile is 14 years of age or older, and:
 - N is alleged to have committed a felony that is a crime of violence;
 - N is alleged to have committed a felony offense relating to firearms and weapons except for the possession of a handgun by a juvenile;
 - N is alleged to have used, or possessed and threatened the use of, a deadly weapon during the commission of felony offenses against the person;
 - N is alleged to have committed vehicular homicide, vehicular assault, or felonious arson; or
 - N is determined to be an "habitual juvenile offender."

² Any crime against an at-risk adult or at-risk juvenile; murder; first or second degree assault; kidnapping; sexual assault; aggravated robbery; first degree arson; first degree burglary; escape or criminal extortion. "Crime of violence" also includes any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

A juvenile is ineligible for sentencing to the YOS and must be sentenced to the DOC if the juvenile is convicted of:

- a class 1 felony;
- a class 2 felony resulting from a plea agreement where the juvenile was charged with a class 1 felony;
- a class 2 felony when the juvenile has one or more prior convictions for a crime of violence or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;
- a class 2 felony when the juvenile is 16 or older;
- incest or aggravated incest or any crime involving unlawful sexual behavior; or
- a second or subsequent offense for the following when such juvenile received a sentence to the DOC or to the YOS for the prior offense:
 - N a felony that is a crime of violence;
 - N a felony offense relating to firearms and weapons except for the possession of a handgun by a juvenile;
 - N use, or possession and threatening the use of, a deadly weapon during the commission of felony offenses against the person;
 - N vehicular homicide, vehicular assault, or felonious arson; or
 - N adjudication as an "habitual juvenile offender."

Transfers From Juvenile Court

Transfer of a juvenile to district court. Colorado law allows a juvenile court to transfer a juvenile to criminal proceedings in district court. The juvenile may be transferred if:

- a petition filed in juvenile court alleges the juvenile is:
 - N twelve or 13 years of age and has committed a delinquent act that constitutes a class 1 or class 2 felony or a crime of violence; or
 - N fourteen years of age or older and has committed a delinquent act that constitutes a felony; and
- the juvenile court finds it would not be in the best interest of the juvenile or the public to retain jurisdiction.

Sentencing juveniles who have been transferred. The district court must sentence a juvenile as an adult if the juvenile:

- is convicted of a class 1 felony;
- is convicted of a crime of violence;
- committed a delinquent act that constitutes a class 1 or 2 felony or a crime of violence and is 12 or 13 years of age and was previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender; or
- committed a delinquent act that constitutes a felony and is 14 years of age or older and was previously adjudicated a mandatory sentence offender, a violent juvenile offender, or an aggravated juvenile offender.

Judges have the discretion to sentence transferred juveniles convicted of the above listed crimes to an adult prison or the YOS. However, the law does not allow a district court to sentence a transferred juvenile to the YOS if the juvenile is convicted of:

- a class 1 felony;
- a class 2 felony resulting from a plea agreement where the juvenile was charged with a class 1 felony;
- a class 2 felony when the juvenile has one or more prior convictions for a crime of violence or prior adjudications for an offense that would constitute a crime of violence if committed by an adult;
- a class 2 felony when the juvenile is sixteen or older; or
- incest or aggravated incest or any crime involving unlawful sexual behavior.



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Appendix F

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MEMORANDUM

Pursuant to section 24-72-202(6.5)(b), research memoranda and other final products of Legislative Council Staff research that are not related to proposed or pending legislation are considered public records and are subject to public inspection.

August 27, 2002

TO: Members of the Interim Committee on Criminal Sentencing

FROM: Colette S. Peters, Research Associate, and Carl Jarrett, Principal Analyst,
303-866-3521

SUBJECT: Technical Parole Violations

This memorandum provides information regarding technical parole violations. Specifically, it clarifies what a technical violation is, and provides information on conditions of parole in Colorado. It also provides information on parole violations in other states.

Definition of "technical parole violation." A technical parole violation is any violation of the conditions of parole other than a conviction for a new felony. Technical violations include convictions for misdemeanors and traffic offenses. When a parolee is *charged* with a new felony, it is also a technical parole violation. This violation is considered a technical violation until the individual is *convicted* of the new felony.

Conditions of parole. Every parolee must sign a written agreement that lists statutory conditions of parole and additional conditions deemed appropriate by the parole board. According to Colorado law, the conditions of parole must include but need not be limited to the following:

- the parolee must go directly to a place designated by the board upon his or her release;
- the parolee must establish a residence of record and may not change it without the knowledge and consent of his or her parole officer and the parolee must not leave the area or the state without the permission of his or parole officer;

- the parolee must obey all state and federal laws and municipal ordinances, conduct himself or herself as a law-abiding citizen, and obey and cooperate with his or her parole officer;
- the parolee must make reports as directed by his or her parole officer, permit residential visits by the parole officer, submit to urinalysis or other drug tests, and allow the parole officer to make searches of his or her person, residence, or vehicle;
- the parolee must not own, possess, or have under his control or in his custody any firearm or other deadly weapon;
- the parolee must not associate with any other person on parole, on probation, or with a criminal record or with any inmate of a correctional facility without the permission of his or her parole officer;
- the parolee must seek and obtain employment or participate in a full-time educational or vocational program while on parole, unless his or her parole officer waives such requirements;
- the parolee must not abuse alcoholic beverages or use illegal drugs while on parole;
- the parolee must abide by any other condition the board may determine to be necessary;
- the parolee must contact a child support enforcement unit if he or she has a child support case to arrange and fulfill a payment plan to pay current child support, child support arrearages, or child support debt due under a court or administrative order; and
- the parole agreement must also contain a notification to the parolee that, should he or she violate any of the conditions or should his or her behavior while on parole indicate potential criminal behavior or violence, his or her parole may be subject to revocation.

Depending on the parolee's circumstances, other conditions of parole are often more individualized than the previous statutorily-prescribed list. Examples of offender-specific conditions follow:

- the parolee must participate in a drug/alcohol treatment program;
- the parolee shall participate in a mental health assessment and then treatment if deemed appropriate;
- the parolee shall not drive without permission from his or her parole officer;
- the parolee must obtain an Alcoholic's Anonymous/Narcotic's Anonymous sponsor;
- the parolee must pay restitution in the amount of \$6,870;
- the parolee must not frequent liquor establishments; and
- the parolee must participate in a sex offender evaluation and follow up.

In FY 2000-01, 2,297 individuals had their parole revoked. Of these revocations, 402 individuals had their parole revoked due to a new felony conviction, and 1,895

individuals' parole was revoked due to technical violations. The technical returns consisted of 82 percent of the total number of parole revocations.

Parole violations in other states. Pursuant to committee questions about the range of technical violations for which offenders can be cited, testimony at the Task Force on Short-term Criminal Sentencing Issues meeting on August 20, 2002 indicated that other states may have more detailed lists of conditions of parole.

Staff has located conditions of parole for 47 states. The conditions of parole in most all of the states are substantively the same as those in Colorado (listed on pages one and two of this memorandum). Also similar to Colorado, all of the states allow for additional conditions of parole which are specific to the offender.

Only the State of Alaska has conditions of parole that are more detailed than Colorado's. In general, the areas covered in Alaska are the same as those in Colorado. However, under each category (travel, victim contact, sex offender, mental health, alcohol, drug conditions, etc.), there is narrative that provides more specific direction for the parolee.

Staff did find that a few states list some additional conditions of parole as follows.

- ***Restrictions on business, credit, and consumer transactions.*** In Alaska, parolees must receive permission from a parole officer before opening a bank account; going into debt; applying for, possessing, or using a credit card; opening or using a checking account; purchasing any item valued at \$500 or more; establishing or operating a business; or working any job in which pay is by commission or involving the direct sale of goods. Parolees are allowed to work a sales job in a retail store. The States of South Dakota and Wisconsin have similar prohibitions.
- ***Prohibitions against working as an informant.*** The State of Alaska prohibits parolees from working as an informant if the work will place the parolee in the position of violating any law or any condition of parole. The State of North Dakota prohibits parolees from participating in undercover work with any member of the Drug Enforcement Unit or any other law enforcement agency.
- ***Restrictions on driving an automobile.*** Parolees in Alaska and Wisconsin are prohibited from purchasing or driving a motor vehicle without the permission of a parole officer.
- ***Polygraph testing required.*** Parolees in Washington are required to submit to a polygraph examination at least every 90 days. The examinations are limited to questions about adherence to parole conditions.