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2011 Legislative Overview

Continuing with the momentum from the 2010 legislative session, a number of important criminal justice reform bills became law during the 2011 legislative session. A number of these bills were based on recommendations from the Commission on Criminal & Juvenile Justice (Commission) and several others were developed outside the Commission process. CCJRC participates in two of the task forces of the state Commission including the drug policy task force and the comprehensive sentencing review task force.

The Commission recommendations that were signed into law include:

- SB 96: Concerning Excluding A Class 6 Felony Drug Possession Conviction As A Qualifying Offense Under The Habitual Offender Statute
- HB 1064: Concerning a Parole Presumption Pilot Program for Certain Drug Offenders
- HB 1167: Concerning The Petition Process For The Sealing of Certain Drug Offense Records
- HB 1189: Concerning Bail Bond Conditions For Those Arrested For Subsequent Substance Abuse Driving Offenses
- HB 1239: Concerning A Requirement to Include Additional Information in Fiscal Notes For Certain Bills Related to Criminal Offenses
- HB 1268: Concerning Penalties for Traffic Offenses Involving Alcohol or Drugs
- HB 1278: Concerning Sex Offender Registration

Two recommendations from the Commission did not become law including HB 1261 which would have created a per-se limit for driving under the influence of marijuana and SB 186 which would have created a bond-to-the-court option.

There were several other notable criminal justice bills that became law that were developed outside the Commission process that were of interest or priority for CCJRC, including:

- SB 133: Concerning a Study of Disciplinary Actions Taken in Schools
- SB 134: Concerning The Addition of Certain Drugs to the Statutory List of Schedule I Controlled Substances
- SB 176: Concerning Appropriate Use of Restrictive Confinement
- SB 241: Concerning Changes Related to the Operation of the Parole Board
- SB 254: Concerning Statutory Changes to Improve Practices for Persons Under Community Supervision
- HB 1032: Concerning Restorative Justice
- HB 1180: Concerning Using Individualized Assessments to Aid Judges in Imposing Criminal Sentences that Reduce the Likelihood of Criminal Offenders Committing Additional Criminal Acts

There were also several bills that were developed outside the Commission process that did not become law. HB 1287 would have allowed juveniles convicted as adults and serving a life sentence (or virtual life sentence) to be parole eligible after serving 40 years. SB 44 would have provided the court with authority to provide relief to a defendant from collateral consequences which was based on model legislation developed by the National Conference of Commissioners on Uniform State Laws. SB 257 would have repealed the consecutive period of mandatory parole that is currently imposed on any defendant sentenced to prison for a felony conviction on or after July 1, 2011. HB 1029 which would have added libraries and

community corrections facilities to the “protected zone” that requires enhanced sentencing under the special drug offender law.

DOC FY 2011-12 budget

The total DOC budget for FY 11-12 is \$727 million, which is \$24 million less than it received for FY 10-11 (after supplemental adjustments). The major reason for the budget decrease was a reduction in payments made to private prisons because it is anticipated that the prison population will continue to decline. Unfortunately, inmate education programs were cut by over \$2 million and drug and alcohol treatment services in prison were cut about \$1 million. The General Assembly also decommissioned another state prison (Fort Lyon Correctional Facility) effective March 2012. This will be the fourth prison closed in Colorado since 2009.

The DOC/Division of Adult Parole’s budget was increased by \$4 million for additional treatment and wrap around services for people on parole as second year funding under HB 1360 which passed during the 2010 legislative session and aims to reduce re-incarceration for technical parole violations. Similarly, over \$6 million in new treatment funding was allocated to the Judicial Department consistent with second year funding under the drug sentencing reform bill, HB 1352, which also passed in the 2010 legislative session. In the past two fiscal budget cycles, (FY 2010-11 and FY 2011-12), these two bills combined have reinvested approximately \$15 million from the DOC budget into treatment and support services for people under community supervision including those in community corrections, or on probation or parole. Some of the 1352 funding in the upcoming fiscal year will be dedicated to creating 10 pilot programs statewide to expand treatment services available to people in jail.

Anticipated impact on prison population from legislation passed in 2011

Although several criminal justice bills passed this session are likely to lower the prison population this figure was not quantified in the fiscal notes, a departure from the methodology from 2010. Fiscal notes are prepared by Legislative Council with input from affected departments to advise legislators of the budget impact of each bill.

For example, HB 1064 creates a presumption of parole for people serving a sentence for drug use/possession who were convicted prior to the passage of the drug sentencing reforms in 2010 pursuant to HB 1352. In its worksheet provided to Legislative Services for purposes of preparing the fiscal note, DOC identified a potential pool of 3,800 inmates who would be crime-eligible for this parole presumption (although other criteria would need to be met including institutional conduct, no prior violent convictions, etc.) After a somewhat circuitous method, the DOC arrived at the conclusion that only 9 inmates per year would be released pursuant to this presumption because the Parole Board retains discretion under HB 1064 and would consider these inmates for discretionary parole anyway. HB 1064 requires the Chair of the Parole Board to submit a status report to the General Assembly no later than January 30, 2012 which should hopefully provide data on implementation and impact on the prison population.

SB 241 also has a high likelihood of reducing the prison population in the short-run by creating two additional parole presumptions for those that meet the medical threshold to be considered eligible for “special needs” parole and a second parole presumption for those inmates convicted of a nonviolent offense that have an active ICE detainer. Again, the fiscal note did not quantify a projected decrease in the prison population. Instead, the fiscal note included a general comment:

“The bill is likely to result in additional inmates being released early as special needs offenders or with ICE detainees. The potential pool of inmates who could be considered for early release as a result of the bill is approximately 959 offenders. The decision to release any offender is at the discretion of the parole board and, as such, the number of releases cannot be determined at this time. If 10 percent of the total pool, 96 offenders, were released an average of 246 days early (an average determined by looking at FY 2009-10 parole releases) at a private prison daily rate of \$52.69, the total operational cost savings would be \$1.2 million. This estimate does not take into account the savings that could be realized through the avoidance of costs for catastrophic medical conditions because it is unknown how many offenders are receiving such care who might be eligible

for early release under the bill. It also does not estimate the amount of medical care costs that would be transferred to the Department of Health Care Policy and Financing for those special needs offenders who qualify for Medicaid upon release. Finally, the bill does not take into account the potential need for new parole officers and parole programming to address the needs of new parolees. Any savings or additional costs that result from the enactment of the bill will be handled during the annual budget process.”(emphasis added).

This change in methodology made it impossible to redirect savings from the correctional budget like we were able to do with both HB 1352 and HB 1360 in the 2010 legislative session. Our alternative is to closely monitor and engage in the budget “supplemental” process which occurs early in the legislative session in which budget adjustments are made (both positive and negative) at the mid-point of the current fiscal year.

Prison population and trends

After decades of growth in the prison population, in FY 2009-10, the total inmate jurisdictional population began to decline by an average of 27 inmates a month. This trend is remarkable considering that just a few years ago, in FY 2005-06, the prison population grew by a record 1,308 people, or more than 100 inmates per month. In the current fiscal year, FY 2010-11, the total inmate jurisdictional population continues to decline but at a slower rate of 21 inmates per month.

The following chart isolates only those inmates in state and private prisons, both on and off grounds. The DOC “total inmate jurisdictional population” also includes those in community corrections, jails, and other designations. Isolating this sub-population indicates that the actual in-prison population decreased by over 500 people between FY 2009 and FY 2010 but decreased by just over 200 people between FY 2010 and FY 2011.

Colorado DOC In-Prison Population			
	state prison	private prison	Total-in prison
FY 2008 (ended 6/30)	14,490	5,224	19,714
FY 2009 (ended 6/30)	14,638	5,383	20,021
FY 2010 (ended 6/30)	14,668	4,795	19,463
FY 2011 (ended 6/30)	14,797	4,399	19,196

Sources: DOC *Monthly Population Reports* for June 30, 2008, June 30, 2009, June 30, 2010 and June 30, 2011 available at <http://www.doc.state.co.us/opa-publications/96>

The reason for the slowing in the rate of decrease probably involves many dynamics but several point to specific trends. First, in September of 2009, the DOC and Parole Board enacted a new “Accelerated Transition Pilot Program” which released eligible inmates six months prior to his or her mandatory release date and provided additional support services while on parole supervision. Although it is unclear whether those parolees actually received additional support services, the ATPP did release a total of 287 inmates (an average of 80 days early) prior to being discontinued by the new Chair of the Parole Board who took office in May 2010.

Second, there has been a marked decrease in the number of inmates released monthly on discretionary parole. In FY 2011 an average of 175 inmates per month were released on discretionary parole as compared to FY 2010 where an average of 237 inmates a month were released on discretionary parole. Some of this decrease is probably attributable to the discontinuation of the ATPP discussed above.

A third factor may be the persistent increase in the number of parolees re-incarcerated for technical violations of parole. As indicated in the chart below, technical parole violators comprised 39% of total prison admissions in FY 2010, as compared to 17% in FY 1997. Two important developments that might reverse this trend include the statewide roll-out in late 2010 of the new DOC technical violation matrix and the passage of HB 1360 in the 2010 session. Hopefully, these strategies will produce a dramatic decrease in the number of parolees re-incarcerated for technical violations in FY 2011 and beyond.

Prison Admissions by Admission Type									
	Court Commitments		Technical Parole Returns		New Crime Parole Returns		Other Admits		Total Prison Admissions
	N	%	N	%	N	%	N	%	N
FY 1996-97	4,288	74%	950	17%	312	5%	215	4%	5,765
FY 1997-98	4,396	71%	1,269	20%	364	6%	163	3%	6,192
FY 1998-99	4,335	66%	1,680	25%	425	6%	162	3%	6,602
FY 1999-00	4,212	61%	2,059	30%	413	6%	169	3%	6,853
FY 2000-01	4,475	64%	1,895	27%	402	6%	180	3%	6,952
FY 2001-02	5,076	65%	2,181	28%	410	5%	135	2%	7,802
FY 2002-03	5,283	68%	1,999	26%	433	5%	84	1%	7,799
FY 2003-04	5,318	65%	2,300	28%	450	6%	97	1%	8,165
FY 2004-05	5,789	61%	2,649	28%	835	9%	160	2%	9,433
FY 2005-06	6,149	61%	2,792	27%	1,034	10%	193	2%	10,168
FY 2006-07	6,380	60%	3,047	29%	1,014	9%	184	2%	10,625
FY 2007-08	6,296	57%	3,353	30%	1,221	11%	168	2%	11,038
FY 2008-09	5,922	54%	3,776	34%	1,131	10%	163	2%	10,992
FY 2009-10	5,343	50%	4,167	39%	1,036	10%	158	1%	10,704
Total % growth	25%		339%		232%		-27%		

Sources: "FY 2011-12 Staff Budget Briefing, Department of Corrections", Joint Budget Committee, General Assembly at 35 (December 20, 2010) available at http://www.state.co.us/gov_dir/leg_dir/jbc/corbrf.pdf; updated information for FY 09-10 obtained from "Statistical Report: Fiscal Year 2010", Colorado Department of Corrections at 15 (February 2011) available at http://www.doc.state.co.us/sites/default/files/opa/StatRprt_FY10.pdf.

Criminal Justice Legislation – signed into law

The 2010 mid-term elections produced a number of changes in Colorado. Democrat Governor John Hickenlooper was elected and inaugurated in January 2011. Republicans gained a one-seat majority in the House of Representatives which is now comprised of thirty-three Republicans and thirty-two Democrats. Democrats retained the majority in the Senate with a composition of twenty Democrats and fifteen Republicans. Governor Hickenlooper also named Tom Clements as the new Executive Director of the Department of Corrections and Tim Hand became the head of the DOC Division of Adult Parole on July 1, 2011.

One of CCJRC's priority bills was SB 241 which, among other things, increased the qualifications and training requirements for parole board members. Three parole board members whose terms expired June 30, 2011 were either not reappointed or did not reapply for appointment. The Chair of the Parole Board also resigned mid-term. Consequently, four new Parole Board members were appointed by Governor Hickenlooper effective July 1, 2011 including the new Chair, Dr. Anthony Young.

The following summarizes a number of the criminal justice bills considered during the 2011 legislative session and CCJRC's position. This is not a comprehensive list of all the criminal justice bills. Bills that became law are listed separately from those that did not. Senate bills are listed first and in numerical order followed by House bills in numerical order. If legislation was based on a recommendation by the Commission on Criminal & Juvenile Justice, it is labeled (CCJJ recommendation). More information on specific legislation is available at www.leg.state.co.us.

SB 96: Concerning Excluding A Class 6 Felony Drug Possession Conviction As A Qualifying Offense Under The Habitual Offender Statute

Sponsors: Senators Steadman, Bacon, Carroll, Giron, Guzman, Hodge, Hudak, Jahn, King K., King S., Mitchell, Morse, Newell, Nicholson, Roberts and Representatives McCann, DelGrosso, Ferrandino, Levy, Nikkel

CCJRC position: Support/priority (CCJJ recommendation)

Summary: A person charged with a class 6 felony for drug possession is not eligible to be sentenced under the habitual offender statute in that case.

Status: Passed the Senate 35-0, passed the House 57-6, and was signed into law on 3/25/11

SB 133: Concerning a Study of Disciplinary Actions Taken in Schools

Sponsors: Senators Hudak and Newell, Foster, Giron, Steadman, Bacon, Jahn, King K. and Representatives Nikkel, Ferrandino, Gardner B., Kagan, Levy, Waller, Solano

CCJRC position: Support

Summary: The bill creates an interim legislative task force to study school disciplinary practices that result in the issuance of criminal tickets and arrests in public schools for school-based behaviors.

Status: Passed the Senate 28-7, passed the House 63-0, and was signed into law on 5/23/11

SB 134: Concerning The Addition of Certain Drugs to the Statutory List of Schedule I Controlled Substances

Sponsors: Senator Kopp and Representatives Murray and Vigil

CCJRC position: Amend/priority

Summary: Distribution, dispensing, manufacturing, sale and possession with the intent to distribute any amount of salvia divinorum or synthetic cannabinoids (aka Spice/K2) is now a class 5 felony or class 4 felony if the distribution is to a minor and the defendant is at least 18 and more than 2 years older than the minor. Possession of these same substances will be a class 2 misdemeanor effective January 1, 2012. Synthetic cannabinoids shall not be considered medical marijuana under Colorado law.

Status: Passed the Senate 34-0, passed the House 61-3, and was signed into law on 6/1/11

SB 176: Concerning Appropriate Use of Restrictive Confinement

Sponsors: Senator M. Carroll and Representative Levy

CCJRC position: Support/priority

Summary: As amended, the bill allows inmates in administrative-segregation to be eligible for earned time, increases funding for mental health services and programs that are alternatives to ad-seg and narrows the definition of security threat group to require active participation—not just association. The DOC is undertaking a review of its entire classification policies, including ad-seg, and is required to present a report to the House and Senate judiciary committees in January 2012.

Status: Passed the Senate 34-0, passed the House 51-12, and was signed into law on 6/2/11

SB 241: Concerning Changes Related to the Operation of the Parole Board

Sponsors: Senators S. King and Carroll and Representatives B. Gardner and Kagan

CCJRC position: Support/priority

Summary: Makes changes to the composition and qualifications to the parole board and adds annual training requirements for parole board members, release hearing officers, and administrative hearing officers. Allows release hearing officers to conduct parole release hearings for inmates assessed to be low risk on CARAS. Modifies the special needs parole program regarding eligibility and DOC referral process. The bill also creates a new presumption of parole for inmates who have been convicted of a nonviolent offense, are medium risk or below on CARAS, and who have an active ICE detainer. Allows the Parole Board, at its discretion, to conduct file reviews (instead of a hearing) when the parole application is for special needs parole or when an eligible inmate has an ICE detainer.

Status: Passed the Senate 34-0, passed the House 63-2, and was signed into law on 5/23/11

SB 254: Concerning Statutory Changes to Improve Practices for Persons Under Community Supervision

Sponsors: Senators Steadman and M. Carroll and Representative Pace

CCJRC position: Support/priority

Summary: The bill outlines eligibility criteria for diversion clients in community corrections to file a motion for early termination of a sentence with the court. For eligible diversion clients, the probation officer is required to submit this motion with notification to the district attorney, defendant, and the victim, if any. If a diversion client is revoked from community corrections and sentenced to prison, the bill also requires the DOC to apply credit for time served for both residential and nonresidential time completed in community corrections. Requires that diversion clients who meet the criteria for time credit deductions be eligible for such deductions and removes the existing 25% cap on the amount of time credit deductions that can be awarded.

Status: Passed the Senate 34-0, passed the House 65-0, and was signed into law on 6/2/11

HB 1032: Concerning Restorative Justice

Sponsors: *Representative Lee and Senator Newell*

CCJRC position: Support

Summary: The bill adds an additional purpose of promoting acceptance of responsibility by offenders and providing restoration and healing for victims and the community while attempting to reduce recidivism by use of restorative justice practices to the Colorado Criminal Code. The bill adds restorative justice to the options a court has when it imposes an alternative sentence instead of incarceration or as a part of a probation sentence. Under current law, restorative justice sentencing provisions are permitted in juvenile cases during advisement, entry of plea, sentencing, and during probation. The bill adds criteria to help prosecutors determine whether restorative justice is a suitable sentencing option. The bill allows the Department of Corrections and the Division of Youth Corrections to establish pilot programs for facilitated victim-offender dialogues in institutions under the control of the departments, which would arrange the dialogues if requested by the victim and agreed to by the offender. The bill creates the right for a victim to be informed by the district attorney about the availability of restorative justice options.

Status: Passed the House 40-25, passed the Senate 34-0, and was signed into law on 6/7/11

HB 1064: Concerning A Parole Presumption Pilot Program for Certain Drug Offenders

Sponsors: *Representative Waller and Senator Steadman*

CCJRC position: Support/priority (CCJJ recommendation)

Summary: The bill creates a pilot program establishing a presumption in favor of granting parole to an inmate who is parole-eligible and serving a sentence for a drug use or drug possession crime that was committed prior to August 11, 2011. The parole board retains full discretion in determining whether to grant or deny parole. An inmate must also meet other criteria such as good institutional conduct, no prior convictions for a violent offense, and no detainers. The parole board must hold a parole hearing within 90 days of an inmate becoming eligible for this presumption.

Status: Passed the House 64-0, passed the Senate 35-0, and was signed into law on 5/27/11

HB 1167: Concerning The Petition Process For The Sealing of Certain Drug Offense Records

Sponsors: *Representatives Ferrandino, Levy and Lee and Senators Nicholson and Steadman*

CCJRC position: Support/priority (CCJJ recommendation)

Summary: The bill amends the petition process for sealing certain drug offense criminal conviction records by staggering the time period a defendant has to wait to petition the court to seal the record based on the severity of the offense, specifically: 3 years on a petty offense or class 2 or 3 misdemeanor; 5 years on a class 1 misdemeanor; 7 years on a class 5 or 6 felony; and 10 years on any other drug crime. The district attorney has the right to veto the request for all offenses except petty offenses for convictions entered before 7/1/2011. For convictions that occur after 7/1/2011, the district attorney has the right to object to the petition but does not have veto authority. To be eligible, a person must also not have been charged or convicted of another offense during the waiting period and have paid all the restitution, fines, or fees ordered in the case seeking sealing.

Status: Passed the House 64-1, passed the Senate 35-0, and was signed into law on 3/29/11

HB 1180: Concerning Using Individualized Assessments to Aid Judges in Imposing Criminal Sentences that Reduce the Likelihood of Criminal Offenders Committing Additional Criminal Acts

Sponsors: *Representative Levy and Senator Steadman*

CCJRC position: Support/priority

Summary: Current law describes four purposes of the Colorado Criminal Code. The bill adds a fifth purpose: to select for each convicted offender a sentence, sentence length, and level of supervision that addresses the offender's individual characteristics and reduces the potential that the offender will engage in criminal conduct after completing his or her sentence. The bill requires each presentence report submitted by a probation officer to a court to include: (1) results of an actuarial risk and needs assessment; (2) whether the defendant is a suitable candidate for an alternative to a prison sentence; (3) appropriate conditions of supervision if the defendant is sentenced to probation; and (4) projected costs associated with each sentencing option available to the court. The court shall consider the purposes of sentencing in granting probation or imposing any other sentence.

Status: Passed the House 62-0, passed the Senate 35-0, and was signed into law on 4/8/11

HB 1189: Concerning Bail Bond Conditions For Those Arrested For Subsequent Substance Abuse Driving Offenses

Sponsors: *Representatives Fields, Schafer S., Todd, Vigil*

CCJRC position: none (CCJJ recommendation)

Summary: The bill requires that for persons who have one or more previous DUI or DWAI convictions, bail bond conditions shall include monitored abstention from alcohol or illegal drugs. A defendant may seek relief from this condition of bond by filing a motion with the court and the court shall consider whether relief from the condition is in the interest of justice and whether public safety would be endangered by the relief. The court shall consider whether the defendant is enrolled in an appropriate substance abuse treatment program.

Status: Passed the House 57-7, passed the Senate 35-0, and was signed into law on 4/8/11

HB 1239: Concerning A Requirement to Include Additional Information in Fiscal Notes For Certain Bills Related to Criminal Offenses

Sponsors: *Representative Nikkel and Senator Roberts*

CCJRC position: Support/priority (CCJJ recommendation)

Summary: Requires that additional information be included in the fiscal note prepared on any bill that creates a new crime or makes changes to the penalty or elements of an offense including: (1) a description of the new, amended, or additional elements of an existing crime; (2) a statement as to whether the offense proposed can already be charged under current law; (3) a comparison of the crime classification and associated penalties to similar types of offenses; and (4) a summary of the current and anticipated future prevalence of the behavior that the proposed new crime, or changes to an existing crime, intends to address.

Status: Passed the House 64-1, passed the Senate 35-0, and was signed into law on 3/29/11

HB 1268: Concerning Penalties for Traffic Offenses Involving Alcohol or Drugs

Sponsors: *Representative Levy and Senator Nicholson*

CCJRC position: none (CCJJ recommendation)

Summary: Addresses the unintended consequences created by HB 10-1347 for first time DUI violations, which was based on a CCJJ recommendation. The bill clarifies that, upon a conviction of a traffic offense involving alcohol or drugs where the offender has one or more prior such convictions, the court may proceed to immediate sentencing without considering the statutorily required alcohol and drug evaluation if the prosecuting attorney and the defendant have stipulated to the convictions. The bill clarifies that when a person is convicted of a first-time DUI, DUI per se, DWAI, or habitual user offense, the court may suspend the mandatory minimum period of the imprisonment portion of the offender's sentence if, as a condition of the suspended sentence, the offender undergoes a presentence or post-sentence alcohol and drug evaluation and satisfactorily completes and meets all financial obligations of a level I or level II program as is determined to be appropriate by the statutorily required alcohol and drug evaluation. The bill clarifies the probation portion of the statutorily prescribed sentences for a traffic offense involving alcohol or drugs. Probation is mandatory for second and subsequent offenses but discretionary for first time offenders. Fines can be suspended for all offenders.

Status: Passed the House 52-11, passed the Senate 35-0, and was signed into law on 6/2/11

HB 1278: Concerning Sex Offender Registration

Sponsors: *Representative Gardner and Senator Morse*

CCJRC position: none (CCJJ recommendation)

Summary: Makes numerous changes to the registration and de-registration process.

Status: Passed House 61-4, passed Senate 35-0, and was signed into law on 5/27/11

Criminal Justice Related Legislation that Did Not Become Law

SB 44: Concerning The Collateral Consequences of a Conviction

Sponsors: *Sen. Steadman*

CCJRC position: Support

Summary: The bill would allow an individual to petition the court, with notice to the district attorney, for limited relief from a collateral consequence of a conviction or for restoration of rights. The bill also requires the state public defender to identify and publish a collection of the collateral consequences that are possible in Colorado based on state and federal laws and regulations. The court, at a defendant's first appearance and at sentencing, shall inform the defendant about the possible collateral consequences of a conviction.

Status: Passed the Senate 35-0 but died in House State Veterans and Military Affairs Committee on 5/4/11

SB 186: Concerning the Establishment of an Alternative Bond Program

Sponsors: *Senator Morse and Representative Waller*

CCJRC position: Support (CCJJ recommendation)

Summary: Permits any judicial district to establish an alternative bond program (bond to court); authorizes law enforcement agencies to work with the alternative bond program to secure the appearance of defendants; and allows some of the proceeds to support a pretrial service program and alternative bond program in the judicial district.

Status: Passed Senate 18-17 but died on the calendar at sine die 5/11/11

SB 257: Concerning the Imposition of Effective Parole Supervision

Sponsors: *Senators M. Carroll, Jahn, Steadman, Hodge*

CCJRC position: Support

Summary: The bill would have eliminated the consecutive mandatory parole period imposed for felony convictions for crimes committed on or after July 1, 2011.

Status: Postponed Indefinitely (died) in the Senate Judiciary Committee on 5/9/11

HB 1029: Concerning Locations At Which Drug Sales Implicate The Special Offender Statute

Sponsors: *Representative Labuda*

CCJRC position: Oppose/priority

Summary: The bill would have added libraries and community corrections programs to the list of locations at which a conviction for drug sales is subject to drug special offender sentencing. The special offender statute increases the penalty for drug sales in a "protected zone" to a class 2 felony.

Status: Postponed Indefinitely (died) in the House Judiciary Committee on 2/3/11

HB 1261: Concerning the Establishment of a THC Blood Content Threshold for the Purpose of Charging a Person with the Criminal Offense of DUI per se

Sponsors: *Representatives Waller and Levy and Senators S. King and Boyd*

CCJRC position: Monitor (CCJJ recommendation)

Summary: Establishes a "per se" violation for driving under the influence of marijuana with a level of 5 nanograms of THC/mL of whole blood or more at the time of driving or within two hours after driving as an unclassified misdemeanor traffic offense; amends the express consent statute to require a blood test if an officer establishes probable cause; amends administrative laws regarding drivers license revocations and reinstatements to mirror the impacts of a per se DUI violation; and clarifies that DUI-D per se is a qualifying offense for multiple driving offenses.

Status: Passed the House 51-14 but died on 2nd reading in the Senate on 5/9/11

HB 1287: Concerning the Opportunity for Community Supervision for a Juvenile Who Is Convicted As An Adult After the Juvenile Has Served A Specified Period of Time

Sponsors: *Representatives Levy and Nikkel and Senator Newell*

CCJRC position: Support

Summary: HB 1287 would have allowed juveniles convicted as adults and serving a life sentence to be eligible for parole after serving 40 years in prison. It would also give juveniles sentenced as adults to very long sentences (essentially a virtual life sentence) to be eligible for parole after serving 40 years in prison.

Status: Died in the House Judiciary Committee on 3/29/11

Vote count by chamber and legislator

The following section provides the vote count on select criminal justice bills by chamber and legislator that were of specific interest or priority for CCJRC. There are 35 members of the Senate and 65 members of the House of Representatives. If the total vote count for either chamber does not total to that number, the reason is because a legislator was excused during the final vote.

HB 1032: Concerning Restorative Justice (Passed the House 40-25, passed the Senate 34-0, and was signed into law on 6/7/11)

HB 1064: Concerning A Parole Presumption Pilot Program for Certain Drug Offenders (Passed the House 64-0, passed the Senate 35-0, and was signed into law on 5/27/11)

HB 1167: Concerning The Petition Process For The Sealing of Certain Drug Offense Records (Passed the House 64-1, passed the Senate 35-0, and was signed into law on 3/29/11)

HB 1180: Concerning Using Individualized Assessments to Aid Judges in Imposing Criminal Sentences that Reduce the Likelihood of Criminal Offenders Committing Additional Criminal Acts (Passed the House 62-0, passed the Senate 35-0, and was signed into law on 4/8/11)

HB 1239: Concerning A Requirement to Include Additional Information in Fiscal Notes For Certain Bills Related to Criminal Offenses (Passed the House 64-1, passed the Senate 35-0, and was signed into law on 3/29/11)

HB 1278: Concerning Sex Offender Registration (Passed House 61-4, passed Senate 35-0, and was signed into law on 5/27/11)

SB 96: Concerning Excluding A Class 6 Felony Drug Possession Conviction As A Qualifying Offense Under The Habitual Offender Statute (Passed the Senate 35-0, passed the House 57-6, and was signed into law on 3/25/11)

SB 133: Concerning a Study of Disciplinary Actions Taken in Schools (Passed the Senate 28-7, passed the House 63-0, and was signed into law on 5/23/11)

SB 134: Concerning The Addition of Certain Drugs to the Statutory List of Schedule I Controlled Substances (Passed the Senate 34-0, passed the House 61-3, and was signed into law on 6/1/11)

SB 176: Concerning Appropriate Use of Restrictive Confinement (Passed the Senate 34-0, passed the House 51-12, and was signed into law on 6/2/11)

SB 241: Concerning Changes Related to the Operation of the Parole Board (Passed the Senate 34-0, passed the House 63-2, and was signed into law on 5/23/11)

SB 254: Concerning Statutory Changes to Improve Practices for Persons Under Community Supervision (Passed the Senate 34-0, passed the House 65-0, and was signed into law on 6/2/11)

Vote Count - HOUSE		HB 1032	HB 1064	HB 1167	HB 1180	HB 1239	HB 1278	SB 96	SB 133	SB 134	SB 176	SB 241	SB 254
Senator	Dist/Pty	Restorative	Drug parole	Sealing	Indiv assess	Fiscal note info	S.O. reg	Habitual-drug	School discipline	Spice/salvia	Ad-segregation	Parole board	Comcorr incentives
	Vote	40-25	64-0	64-1	62-0	64-1	61-4	57-6	63-0	61-3	51-12	63-2	65-0
Status-Governor		signed	signed	signed	signed	signed	signed	signed	signed	signed	signed	Signed	signed
Acree, Cindy	40/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Balmer, David	39/R	N	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y
Barker, Mark	17/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Baumardner, R	57/R	N	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y
Becker, Jon	63/R	N	Y	Y	Y	Y	N	Y	Y	Y	N	N	Y
Beezley, Donald	33/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Bradford, Laura	55/R	N	Y	Y	E	Y	Y	Y	Y	Y	Y	Y	Y
Brown, J Paul	59/R	N	Y	N	Y	Y	Y	Y	Y	Y	N	Y	Y
Casso, Edward	32/D	Y	Y	Y	Y	Y	Y	Y	E	Y	Y	Y	Y
Conti, Kathleen	38/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Coram, Don	58/R	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
Court, Lois	6/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Delgrosso, Brian	51/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Duran, Crisanta	5/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	E	Y	Y
Ferrandino, Mark	2/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fields, Rhonda	42/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fischer, Randy	53/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Gardner, Bob	42/R	N	Y	Y	E	Y	Y	Y	Y	Y	Y	Y	Y
Gardner, Deb	11/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Gerou, Cheri	25/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Hamner, Millie	55/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Holbert, Chris	44/R	N	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y
Hullinghorst, D	10/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Jones, Matt	12/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Joshi, Janak	14/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Kagan, Daniel	3/D	Y	Y	Y	Y	Y	Y	E	Y	Y	Y	Y	Y
Kefalas, John	52/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kerr, Andy	26/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Kerr, James	28/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Labuda, Jeanne	1/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Lee, Pete	18/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Levy, Claire	13/D	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Liston, Larry	16/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Looper, Marsha	19/R	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y

Massey, Tom	60/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
McCann, Beth	8/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
McKinley, Wes	64/D	Y	Y	Y	Y	Y	Y	Y	Y	E	E	Y	Y
Miklosi, Joe	9/D	Y	Y	Y	Y	Y	Y	E	Y	Y	Y	Y	Y
Murray, Carole	45/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Nikkel, B.J.	49/R	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Pabon, Daniel	4/D	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Pace, Sal	46/D	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Peniston, Cheryl	35/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Priola, Kevin	30/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Ramirez, Robert	29/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Riesberg, Jim	50/D	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y
Ryden, Su	36/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Schafer, Sue	24/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Scott, Ray	54/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Solano, Judy	31/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Sonnenberg, J	65/R	N	Y	Y	Y	Y	N	N	Y	Y	Y	Y	Y
Soper, John	34/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Stephens, Amy	20/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Summers, Ken	22/R	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y
Swalm, Spencer	37/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Swerdfeger, Keith	47/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Szabo, Libby	27/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Todd, Nancy	41/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tyler, Max	23/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Vaad, Glenn	48/R	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Vigil, Edward	62/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Waller, Mark	15/R	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Williams, Angela	7/D	Y	Y	Y	E	Y	Y	Y	Y	Y	Y	Y	Y
Wilson, Roger	61/D	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Speaker McNulty	43/R	N	E	Y	Y	Y	Y	Y	E	Y	N	Y	Y
		HB 1032	HB 1064	HB 1167	HB 1180	HB 1239	HB 1278	SB 96	SB 133	SB 134	SB 176	SB 241	SB 254
		Restorative	Drug parole	Sealing	Indiv assess	Fiscal note info	S.O. reg	Habitual-drug	School discipline	Spice/salvia	Ad-segregation	Parole board	Comcorr incentives
		40-25	64-0	64-1	62-0	64-1	61-4	57-6	63-0	61-3	51-12	63-2	65-0