

Colorado Justice Report

Founded in 1999, CCJRC is a network of organizations, faith communities, and individuals working to eliminate the overuse of the criminal justice system and advance community health and safety in Colorado.

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2019 Legislative Session Wrap-up



By Terri Hurst

And we thought last year's session was a beast.....Ha! 2019 takes the prize for the wildest, busiest session in recent memory. There were long nights, lots of pontificating and political she-nanigans from some cranky legislators, but it was a tremendous year for criminal justice reform efforts. In addition, there was significant investment and focus on improving access for health-care and behavioral healthcare services across the state. We are beyond thrilled with the progress our state made this past session. All of the bills listed below passed during the session and have been signed by Governor Polis. CCJRC staff was able to attend two bill-signing sessions, one at Sobriety House and one at Second Chance Center. Now the fun part of implementation begins. We will be sure to provide any relevant updates in our next newsletter to let you know how we are progressing as our state makes significant shifts to our current criminal justice system.

CCJRC Priority Bills

HB19-1263 Offense Level for Controlled Substance Possession

House Vote: 40 yes, 25 no / Senate vote: 20 yes, 15 no

Beginning March 1, 2020, drug possession of 4 grams or less of a Schedule I or II drug will be lowered from a felony to a misdemeanor with a cap of up to 180 days in jail and up to two years of probation. For a third offense, a person could be jailed up to 364 days and a fourth or subsequent offense would be a level 4 drug felony. The legislation applies the same penalty reductions to possession of more than 12 ounces of marijuana or more than three ounces of marijuana concentrate. It does not make any changes related to drug distribution offenses. The legisla-

tion also directs \$1.8 million to the creation of a substance use and mental health services grant program that will provide resources to counties for treatment services and diversion programs.

SB19-64 Retain Criminal Justice Programs Funding

Senate vote: 35 yes / House vote: 53 yes, 9 no, 3 excused

Creates cash funds for each of the three community reinvestment initiatives that CCJRC has created over the past 5 years: Work and Gain Employment and Education Skills (WAGEES) reentry grant program, Transforming Safety, and Crime Victim Services grant program, so that any funds not spent by the end of the fiscal year will automatically rollover to the next year and can be spent. In addition, the Transforming Safety Initiative was extended to 2023 before it will go through a sunset review (it was originally scheduled to undergo a sunset review in 2020). The Crime Victim Services Grant Program funding also increased by \$300k for a total of \$1.15m via HB19-1064 while the WAGEES funding was increased to \$6.7 million. In addition, DOC received \$500k for housing support specifically for WAGEES clients.

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SB19-008 Substance Use Disorder Treatment in the Criminal Justice System

Senate vote: 35 yes / House vote: 47 yes, 17 no, 1 excused

Every jail in Colorado that receives state funding for behavioral health services must have a policy in place as to how they will provide Medication Assisted Treatment (MAT) to people who are incarcerated with a history of opiate use. The Department of Corrections (DOC) will need to continue providing MAT for those who began MAT while incarcerated in jail and after release. SB008 also creates a harm reduction grant program that will be administered through the Department of Public Health & Environment to support harm reduction strategies and collaboration between community organizations, law enforcement and local public health agencies in order to expand the use of harm reduction strategies at the community level and help divert people out of the criminal justice system. The grant program was funded at just shy of \$1.9m a year.

SB19-143 Parole Changes

Senate vote: 31 yes, 4 no / House vote: 43 yes, 22 no

Builds upon last years' CCJRC priority bill, HB18-1410, to improve reentry supports and reduce the number of people in prison. There are a number of provisions in the bill:

Reducing the number of people in prison reincarcerated for a technical parole violation. Specifically, reincarceration for a technical parole violation is no longer an option if:

- A person is on parole for DF2, DF3, DF4, nonviolent F3, F4, F5, F6 and
- The parole violation did not involve possession of a weapon, unauthorized contact with a victim, refusing or failing to comply with requirements of sex offender treatment, absconding, willful failure to appear for a summons, or willful tampering or removal of an ankle monitor. A person on parole can be revoked up to remainder if the technical violation is one the aforementioned violations.
- DOC will create 24 intensive treatment beds for men at Camp George West and 17 intensive treatment beds for women at the apartments at DWCF for people on parole in need of behavioral health treatment. The program will be voluntary and we are not sure when DOC will have the treatment program operational. Possible Sure & Swift jail sanctions will be increased from 5 to 14 days. Will allow persons who are discharged from a DOC facility to receive reentry services from a WAGEES site for up to a year from the discharge (off paper) date.

Changes to Parole Board decision-making

- The Parole Board will be required to hold a full board hearing in order to deny someone parole who is

deemed low or very low risk and meets other necessary criteria.

- Requires DOC to submit a list of people in prison who are medium or lower risk, past PED, and who meet other criteria to the Parole Board when the prison vacancy rate is 3% or less for 30 days. The Parole Board is required to conduct a file review within 30 days and set a release date no later than 30 days after the file review. If victim notification is required and a victim wants to provide input, the Parole Board can hold a hearing and set the release date no later than 30 days after the hearing. Denying parole requires a majority vote of the full Board.



Governor Polis and stakeholders at Sobriety House for SB19-08 bill signing

HB19-1266 Restore Voting Rights Parolees

House vote: 45 yes, 19 no, 1 excused / Senate vote: 23 yes, 12 no

Beginning July 1, 2019 people on parole will have the right to register to vote and vote in elections.

Collateral Consequences

HB19-1275 Increased Eligibility for Criminal Record Sealing

House vote: 59 yes, 3 no, 3 excused / Senate vote: 32 yes, 3 no

Reduces fee to \$65 fee and establishes new timelines for sealing:

- 1 year after completion of sentence on petty offense;
- Class 2 or 3 misdemeanor or drug misdemeanor – 2 years after completion of sentence;
- DM1, DF4, DF3, F6, F5, F4 – 3 years after completion of sentence;
- All other eligible offenses - 5 years after completion of sentence.

Offenses not eligible for sealing: Class 1 or 2 misdemeanor traffic offenses, class A or B traffic offenses, DUI, sex offenses,

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extraordinary aggravating circumstances, extraordinary risk crimes, special offender, domestic violence, crime of violence, any F1, F2, F3 of DF1. Misdemeanor offenses that are not eligible may become eligible for sealing if the District Attorney consents. Creates an expedited sealing process for people who were arrested but never charged, mistaken identify, acquitted, or people who had successfully completed diversion. The bill also contains a lot of procedural details around when a judge does or does not need to hold a hearing, etc. The provisions of this bill will go into effect August 2, 2019.

HB19-1025 Limits on Job Applicant Criminal History Inquiries

House vote: 42 yes, 22 no / Senate vote: 20 yes, 12 no, 3 excused

Beginning September 1, 2019 an employer with 11 or more employees; and on and after September 1, 2021, all employers are prohibited from stating in a job posting or application that a person with a criminal history may not apply. These rules do not apply if an employer is advertising a position that federal, state, or local law prohibits individuals with specific criminal convictions from holding. The bill also exempts any employer hiring as part of a program to encourage the employment of people with criminal histories. An employer may continue to obtain a criminal background report during any other stage of the hiring process.

HB19-1106 Rental Application Fairness Act

House vote: 40 yes, 23 no, 1 excused / Senate vote: 20 yes, 10 no, 5 excused

Beginning August 2, 2019, a landlord cannot consider rental or credit history beyond seven years from the date of an application & a landlord cannot consider an arrest record of a prospective tenant from any time or any conviction that occurred more than 5 years before the date of the application except if the conviction record or deferred judgment is in regards to unlawful distribution/manufacture of methamphetamine, any offense that requires the person to register as a sex offender, homicide/homicide related offense, or stalking.

SB19-170 Inquiry into College Applicant Criminal History

Senate vote: 33 yes, 2 excused / House vote: 43 yes, 21 no, 1 excused

Beginning May 1, 2020, an institution of higher education cannot ask about or require disclosure of an applicant's criminal history on an admission application except they may ask about an applicant's prior convictions and/or prior disciplinary history at another academic institution for stalking, sexual assault and domestic violence; prior convictions (within 5 years of submitting the application) for assault, kidnapping, voluntary manslaughter or murder; and any pending criminal charges. An institution for higher education can inquire about an admitted applicant's criminal history when obtaining information regarding participation in campus life or student housing.

HB19-1310 Interest on Orders of Restitution

House vote: 41 yes, 23 no, 1 excused / Senate vote: 20 yes, 15 no

HB1310 lowers the interest rate charged on restitution from 12% to 8% for orders entered on and after July 1, 2019. It also suspends interest on restitution while someone is incarcerated in DOC or if the defendant is in a juvenile delinquency case and is under the age of 21. For people whose restitution is currently accruing at 12%, starting January 1, 2020, their interest will accrue at 8%.

Behavioral Health

HB19-1009 Substance Use Disorders (SUD) Recovery

House vote: 40 yes, 21 no, 4 excused / Senate vote: 22 yes, 13 no

Expands a state housing voucher program offered through the Dept. of Local Affairs to people with a SUD who are transitioning out of a residential treatment program. The voucher program is currently for people transitioning out of jails & prisons with a mental health or co-occurring disorder. Allocates an additional \$1 million to the housing voucher program for the next five years (for a total of \$1.9m funds available for this upcoming fiscal year). Beginning January 1, 2020, recovery residences and sober living homes must be certified by the Office of Behavioral Health (OBH), though there are some exceptions (including WAGEES programs). There will be a small grant program within OBH to help recovery residences offset the costs to become certified. Creates the Opioid Crisis Recovery Funds Advisory Committee if/when Colorado receives funding from any litigation against pharma.

HB19-1287 Treatment for Opioids and Substance Use Disorders

House vote: 57 yes, 6 no, 2 excused / Senate vote: 35 yes

Requires the Department of Human Services (DHS) to create a centralized, web-based behavioral health capacity tracking system to track bed space and availability real-time across the state. The system must be implemented by DHS by January 1, 2021 and available to the public by January 1, 2022. Requires the DHS on or before January 1, 2020 to create a "care navigation program" that will help people who are interested in getting substance use disorder treatment actually find treatment services. Creates a \$5 million grant program to build substance use disorder treatment capacity in rural and frontier communities across Colorado.



Rep. Leslie Herod with members of CCJRC staff and Board at the bill signing at the Second Chance Center

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HB19-1269 Mental Health Parity Insurance Medicaid

House vote: 48 yes, 15 no, 2 excused / Senate vote: 30 yes, 5 no

Requires private health insurance companies to cover behavioral, mental and substance use disorder services at the same coverage level as physical health services and that complies with the federal Mental Health Parity and Addiction Equity Act. Requires Health First Colorado (Colorado's Medicaid Program) to ensure coverage of all behavioral, mental and substance use disorder services even if the services are denied by a managed care entity. Requires services be provided regardless of any co-occurring conditions. Requires better transparency for Health First Colorado and its behavioral healthcare system & structure.

Jail/Bond Reform

SB19-191 Prompt Pretrial Liberty and Fairness (ACLU-Colorado priority bill)

Senate vote: 25 yes, 9 no, 1 excused / House vote: 54 yes, 9 no, 2 excused

Beginning January 1, 2020, requires each judicial district to create a plan for setting bond for all in-custody defendants within 48 hours of arrest. No later than Nov. 1, 2019 the state court administrator's office must report all 22 judicial district plans, not including Denver, to the House & Senate Judiciary Committees. Minus extraordinary circumstances, a defendant must be allowed to post bond within 2 hours after the sheriff receives bond information from the court though the sheriff may allow an individual to choose to stay overnight if there are extenuating circumstances to be released, such as inclement weather, lack of transportation or shelter. A defendant may not be charged more than a \$10 bond processing fee. Unless extraordinary circumstances exist, a person must be released as soon as practicable but no later than 4 hours after the defendant is physically present in the jail and has posted bond.



Governor Polis, Rep. Herod and Sen. Lee signing HB19-1263 at the Second Chance Center

HB19-1225 No Monetary Bail for Certain Low-Level Offenses (ACLU-Colorado priority bill)

House vote: 64 yes, 1 excused / Senate vote: 33 yes, 2 excused

A court will not be able to impose bail as a condition of release for people charged with a traffic offense, petty offense or a comparable municipal offense. If the muni offense is a property crime, it has to involve loss/damage that is less than \$50.

HB19-1297 Jail Capacity Data Collection (ACLU-Colorado priority bill)

Senate vote: 34 yes, 1 no / House vote: 60 yes, 3 no, 2 excused

Requires jails to collect and report data on certain metrics such as average daily population, average length of stay, number of deaths, number of bookings, etc. The data must be provided to the Division of Criminal Justice on a quarterly basis beginning on or before January 17, 2020.

Miscellaneous

SB19-165 Increase Parole Board Membership

Senate vote: 34 yes, 1 excused / House vote: 54 yes, 11 no

Will increase the Parole Board by 2 members, which will make the Board have a total of 9 members.

SB19-259 Use CSP II to House Inmates in an Emergency

Senate vote: 34 yes, 1 excused / House vote: 58 yes, 5 no, 2 excused

Would allow the use of up to 126 beds at CSP II if the prison vacancy stays below 1% for more than 30 days and if the DOC exhausts all of the prison population management measures enacted last year in HB18-1410 and this year in SB19-143.

HB19-1288 Foster Youth Siblings Bill of Rights

Unanimous in both the House & Senate

Establishes rights for sibling youth in the foster care system unless the youth are in the custody of the Division of Youth Services or in a hospital for people with mental health disorders.



Volunteer Opportunities

Do you see voting as a powerful tool in our democracy? If so, please join the Colorado Criminal Justice Reform Coalition as we kick off our summer voter registration and canvassing efforts in Aurora. This Summer, from July 8 - August 23rd, volunteers will help CCJRC go door-to-door surveying voters in Aurora. Volunteers will have great conversations with voters on what their priorities are for criminal justice reform and their expectations of the next DA in anticipation of the 2020 District Attorney elections.

Volunteers can also help with voter registration! If you are interested, please join us for our Voter Registration/Canvassing trainings happening throughout the summer. The trainings will be located at our office on 1212 Mariposa St., Denver, 80204. To RSVP, email Jasmine Ross at jasmine@ccjrc.org

Building Blocks for Democracy- Make Freedom Count!

By Juston Cooper

What a year for expanding democracy in Colorado! Colorado is often seen as a model state for voter engagement and this year the Legislature passed sweeping reforms (HB19-1266) which gave voting rights to nearly 10,000 people on parole!! The Secretary of State's Office also clarified that people who are living in halfway houses who are not on inmate status (i.e. diversion clients) are also eligible to register to vote and vote!

These changes create yet another building block towards permanent voter enfranchisement of people currently involved in the criminal justice system in our state. In other words, if you are on probation, you can vote! If you are on parole, you can vote! If you are in jail pretrial or serving a misdemeanor sentence, you can vote! If you are on bond or summons awaiting trial, you can vote! If you have an old conviction that's completed, you can vote!

In 2018, CCJRC, ACLU-CO and Colorado Common Cause helped pass SB18-150 which mandated voter pre-registration for people released on parole. The coalition also worked with the Colorado Secretary of State's office on rule making that required that all 56 county jails and county elections divisions develop plans to ensure that eligible people in jail had a realistic way to register to vote and vote.

CCJRC believes this joint effort in 2018 paved the way for the bi-partisan support for HB19-1266, which was signed into law by Colorado Governor Jared Polis on May 28, 2019, and goes into effect July 1, 2019.

The voices of justice-involved people are vitally important in all elections. CCJRC will be on the front line helping them get registered and engaged.

As the nation gets ready for a presidential election in 2020, our state will also be ramping up for state and local elections, including the election of District Attorneys (DAs) in each of the twenty-two Judicial Districts. The elected DA has broad influence, not just in what happens in the courtroom, but also in setting a culture and vision for the deputy district attorneys that work in the DA's office. They influence policy at the Capitol and in their local communities and are generally acknowledged as public safety "experts".

Yet, many voters in Colorado know very little information about DA elections and CCJRC wants to change that. Our "Know Your DA" (KYDA) campaign provides basic public education on the role, responsibilities and power of the elected DA. CCJRC has decided to focus our DA voter education in Aurora where the current DA is term limited. Starting July 10, 2019, CCJRC will go door-to-door in Aurora to speak to voters and gain a better understanding of voter's knowledge of DA elections and their expectations of their next DA.

We will also be on the ground to help people on parole in Aurora to register to vote. We will be doing voter registration at the Aurora parole office, Second Chance Center, Aurora Ready-to-Work and various halfway houses. We will also be hosting a series of community meetings in Aurora to help educate the community on the new law, and discuss criminal justice reform priorities and the importance of the 2020 DA election. When people vote for the first time, they are encouraged to keep voting! And the City of Aurora has an important 2019 general municipal election in November. We believe this is a perfect opportunity for people on parole to make their freedom count by participating in voting.

We will provide educational materials and training at all the 17 WAGEES partners statewide that provide reentry services for people coming out of prison on parole. We will also distribute materials to all the parole offices and halfway houses.

We encourage you to join us in spreading the word. If you or anyone you know would like to more information we are happy to send material to you, have a conversation and encourage people to support all eligible citizens in voting. If you would like to get involved and volunteer with any of this year's efforts, please email Jasmine Ross at jasmine@ccjrc.org or go to our website to sign up at www.votingwithconviction.org.



NEW GO GUIDE

More exciting news! With all of the changes in law, policy and community that have happened in the last year, we have decided to publish a 5th edition of the Go Guide. This new edition should be available this fall.



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11th Annual Voices for Justice

11th Annual Voices for Justice Fundraiser
Wednesday, September 25, 2019
5:30 p.m. to 8:30 p.m.



MILE HIGH STATION
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CATERED BY FOOTERS
Open bar

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On Wednesday, September 25, 2019 we will celebrate our eleventh annual night of fun and fundraising with an award ceremony, open bar, delicious food, and a magnificent silent auction at the Mile High Station in Denver, Colorado. We would like to invite you to attend or become a sponsor of this event.

The Rupert - Tate Game Changer Award honors our two co-founders and their prescience in challenging the criminal justice status quo in Colorado. It is our great honor to extend the 2019 Game Changer award to

Maureen Cain

Maureen Cain is currently the Director of Legislative Policy and Organizational Communication at the Colorado State Public Defender's Office. She represents the State Public Defender on all legislative and policy matters before the General Assembly and all other governmental bodies or agencies. Maureen is a graduate of University of Denver School of Law and is the proud mother of Madeline, Sarah and Joseph.

Prior to her current position, Maureen worked at the Colorado Criminal Defense Bar and has been a part of the Colorado Commission on Criminal and Juvenile Justice for the last decade where she has worked on sentencing reform, bail and drug reform. She also headed the Colorado Relief Project, a project designed to provide pro bono assistance to folks on record sealing and other collateral relief and maintained a private practice.

Maureen currently serves on the Board of Directors for the National Association of Criminal Defense Lawyers (NACDL). She also serves on the Colorado Attorney Disciplinary Board as an appointee by the Colorado Supreme Court and is the defense attorney representative on the Colorado Human Trafficking Council. Over the past few decades, Maureen has received numerous awards for her work. At the same time, she has very generously lent her legal and legislative expertise, wisdom, and friendship to CCJRC. We love and honor her for her decades of leadership and advocacy on behalf of justice and humanity.

YES! Count me in! I want to support CCJRC and help eliminate the overuse of the criminal justice system in Colorado.
Enclosed is my tax-deductible contribution!

Your support makes all the difference!

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