

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.

1212 Mariposa St. #6, Denver, CO 80204 | www.ccjrc.org | info@ccjrc.org | 303 825-0122



2022 Legislative Wrap Up

By Terri Hurst

Every year we have an exclamation about how bananas or difficult the session was, and each year is filled with its own flavor of politics and drama. Well, here we are again, and I will say that this year may have been one of the most challenging, heartbreaking, exhausting, and confusing sessions for CCJRC.

One of the dominant issues was how to allocate over \$1 billion in federal funds that Colorado received in federal stimulus. These are one-time dollars that need to be spent over the next two or three years so that's why you'll see a bunch of bills that create new grant programs for various things including a major investment in expanding behavioral health services, housing, and diverting/redirection people out of the criminal justice system.

There was also a slate of bills that were part of the Governor's Public Safety Initiative, that would also allocate ARPA funding. Unfortunately, in developing these bills the Governor did no community outreach for input and so CCJRC (and a lot of other group) had to scramble to get bills amended or rewritten.

Last but not least with the massive fight over the fentanyl bill, which is described in a lot more detail below, particularly to prevent changes that would make simple possession of fentanyl a felony. It was like rolling back the debate thirty-years to the height of drug war hysteria over crack. We were mostly in damage control mode although there are substantial investments in harm reduction strategies that we are really pleased about.

The bills included below are by no means an exhaustive list of all of the criminal and juvenile justice bills or behavioral health bills that were debated and discussed this year. This should give a nice snapshot and overview of some of the bigger bills that CCJRC was actively working on throughout the session as well as those that we believe will have a big impact.

All of these bills have been signed into law.

Unfortunately, one really important bill that didn't pass was SB22-023 – Deceptive Tactics Juvenile Custodian Interrogation. The bill sponsors actually killed their own bill because of how watered down the bill got as a result of amendments. It would have prohibited law enforcement from using false facts or deception to obtain a statement of admission from a juvenile during interrogation and would have required a juvenile interrogation to be recorded. We hope the sponsors will try again.

Budget Recap

Joint Budget Committee (JBC action) – We are pleased that all of the CCJRC Community Reinvestment Initiatives were funded in full for next fiscal year that will provide \$16m to support community-based services for crime prevention, reentry, underserved victims, and and harm reduction. The DOC budget is barely shy of cracking \$1 billion at \$993,358,324 and so we anticipate we'll see a BILLION dollar prison budget in the next budget cycle or two. The DOC Compassionate Care pilot program was funded, which will provide for 10 long-term care beds for people who need a higher level of medical care in order to be released to community, which is a drop in the bucket compared to what's needed. Another thing to note is that the JBC approved eliminating subsistence payments for people in community corrections facilities and instead increased the per diem rates that community correction facilities receive. It will go into effect July 1st of this year.

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CCJRC Priority Bills

SB22-001 – Crime Prevention Through Safer Streets

Sponsors: Senators Buckner & Hinrichsen and
Representatives Ricks & Tipper

Senate vote: 22 yes // 12 no // 1 other

House vote: 40 yes // 22 no // 3 other

Description: Creates a \$10.3 million “Crime Prevention Through Safer Streets” grant program within the Department of Public Safety (DPS) that will fund local governments to support crime prevention strategies and initiatives. A local government may partner with a community-based organization to submit a joint application. The goal of the grant program is to decrease the incidence of crime & create safer streets. Improvements may include better lighting, improved trash collection, access control, territorial reinforcement, & improved space management. An Advisory Board will be created to assist the Department in making decisions on which grant applications will receive funding. CCJRC initially opposed the bill and worked with other groups to get a number of amendments made. Still don’t love the bill but hate it less.

SB22-145 – Resources to Improve Community Safety

Sponsors: Senators Buckner & Cooke and
Representative Valdez

Senate vote: 33 yes // 2 other

House vote: 52 yes // 13 no

Description: Create 3 new grant programs within the Division of Criminal Justice: a multi-disciplinary crime prevention and intervention grant program (\$7.5m a year for 2 years), a law enforcement workforce recruitment, retention and tuition grant program (\$3.75m a year for 2 years), and a State’s Mission for Assistance in Recruiting and Training (SMART) Policing grant program (\$3.75m a year for 2 years). The bill also provides \$100k for DCJ to host a statewide crime prevention forum no later than September 1, 2022. CCJRC was able to get a lot of amendments to the bill but was not able to strip out funding for law enforcement. Law enforcement budgets, other than state patrol, should be funded out of local, not state budgets.

SB22-183 – Crime Victim Services

Sponsors: Senators Winter & Gardner and
Representatives Duran & Weissman

Senate vote: 34 yes // 1 no

House Vote: 43 yes // 20 no // 2 other

Description: Provides \$41 million over two years to victim services programs including \$1m to the Community Crime Victim Services Program withing the Department of Public Health & Environment (CDPHE) that CCJRC established in 2018. The bill also requires better public facing data be reported from state agencies that fund victim services. In addition to being able to secure another \$1m for the CCVS program, we also were able to get some amendments to start to address the lack of equity in victim services.

SB22-196 – Health Needs of Persons in Criminal Justice System

Sponsors: Senators Lee & Gonzales and
Representatives Bacon & Benavidez

Senate vote: 29 yes // 6 no

House vote: 42 yes // 20 no // 3 other

Description: Creates a one-time \$50.7 million grant program in the Behavioral Health Administration (BHA) to increase community-based responses, such as the STAR program or co-responder programs, to divert people with behavioral health needs from becoming involved in and redirecting people away from the criminal justice system. Provides \$3 million to Department of Corrections (DOC) to increase medication assisted treatment (MAT) access and services to those who are incarcerated in prison, allocates \$4 million to judicial for diversion programs and provides \$3.5 million to create a behavioral health and data sharing program for jails to integrate data systems across the criminal justice and behavioral health sector. There are also provisions in the bill to improve Medicaid enrollment for justice involved people as well as improved access to healthcare services including continuity of care prior to a person’s release from prison or jail. CCJRC was part of a coalition that worked with sponsors to rewrite the draft that the Governor initially proposed. It’s a major investment to try and reduce the overuse of the criminal legal system for people with behavioral health needs. This was a huge effort and we’re so grateful to the sponsors for being so collaborative.

HB22-1326 – Fentanyl Accountability and Prevention

Sponsors: Representative Garnett and

Senators Pettersen & Cooke

House vote: 35 yes // 30 no

Senate vote: 27 yes // 8 no

Description: This was one of the most contentious bills of the session and unfortunately, the bill passed with some criminal provisions that CCJRC was opposed to. In particular, the bill changed the misdemeanor cut point for possession of fentanyl from 4 grams to 1 gram and it will now be a felony for anyone arrested with more than 1g of fentanyl. Also, given that we know the drug supply is very unpredictable right now and fentanyl is being cut in a lot of other drugs (like cocaine and methamphetamine), there is a real risk that the state essentially re-felonized possession unless you have less than 1 gram of any drug. A person could potentially fight in court that they didn’t know the drugs they bought contained fentanyl, but we’ll have to see how successful that is once cases start going to court. But, this felony isn’t prison eligible but jail is still a sentencing option.

Other provisions of the bill include:

- Creates new drug weight cut points specifically for fentanyl and fentanyl analogs for various levels of distribution offenses.
- Creates a new felony crime of distribution resulting in death that would apply to fentanyl and fentanyl analogs. The sentencing would vary depending on whether someone was dealing at a lower or higher level when the customer died from an overdose.
- Creates new DF1 felony crimes for importing more than 4g of fentanyl into Colorado and possession of a pill press with the intent of producing pills containing fentanyl.
- Also expands the state’s Good Samaritan law so that if someone who was dealing at the lowest level (DF3) stayed on the scene of an overdose and calls 911 for medical help, they wouldn’t be charged with distribution resulting in death, although they could still be charged with distribution.
- Anyone convicted of a drug offense involving fentanyl must be assessed to determine if treatment is needed and, if so, treatment may be required as part of a condition of probation or any deferred judgment.
- Allows for safe disposal of fentanyl and prohibits prosecution for

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CCJRC Communications coordinator Pam Clifton testifying in Senate Judiciary on HB22-1326

- Requires a post-enactment review in three years to assess the impact of various parts of the bill.
- Standing orders for naloxone will be expanded to a lot more entities including community groups, colleges/universities, and criminal justice agencies to make naloxone much more widely available. Also makes these entities eligible to purchase naloxone and testing strips at a discounted price from the state. The bill allocates \$20m to purchase naloxone and \$300,000 to purchase testing strips. Provides immunity from civil liability to people who dispense naloxone or testing strips.
- Requires jails and community corrections to increase their efforts around preventing overdoses, including greater access to Medication Assisted Treatment (MAT) and naloxone, and better withdrawal management care. (DOC will also be required to do the same but that is in SB22-196).
- Starting January 2023, allows Correctional Treatment Funds to purchase MAT, naloxone, and fentanyl testing strips for use by probation, jails, DOC, and community corrections.
- The Managed Service Organizations (MSO) which receive state and federal funds to provide addiction treatment services are required to assess gaps related to MAT providers, ambulatory withdrawal management, recovery services within public high schools, and recovery residences within each region of the state by January 1, 2023.
- \$10m was also allocated to the MSOs to expand the availability of medical detox units across the state to hopefully reduce the number of people who are forced to detox in jail. Ideally, law enforcement wouldn't arrest people if they can take them to medical detox instead but we'll see how this plays out.
- Finally, the bill provides \$6 million to the Harm Reduction Grant Program (HRGP) within CDPHE to expand public education, overdose prevention, and the number of harm reduction organizations, especially in communities that are experiencing high rates of overdose deaths.

Other bills of importance

SB22-010 – Pretrial Diversion for Person with Behavioral Health

Sponsors: Senators Simpson & Lee and
Representatives Benavidez & Amabile
Senate vote: 35 yes
House vote: 61 yes // 1 no // 3 other

Description: Repeals the mental health diversion pilot program that is set to end July 1, 2022 and instead expands existing pretrial diversion

programs to intentionally identify and focus diversion programs on individuals with a behavioral health disorder (meaning anyone with an addiction and/or mental health disorder).

SB22-018 – Expand Court Reminder Program

Sponsors: Senators Lee & Cooke and
Representatives Benavidez & Soper
Senate vote: 31 yes // 2 no
House vote: 54 yes // 11 no

Description: Strengthens the existing court reminder program by automatically enrolling people in the program who will receive 3 reminders of an upcoming court date. A working group is also created to study best practices and the effectiveness of the court reminder program. Recommendations from the working group will be shared in the Judicial Department annual report to legislators.

SB22-043 – Restitution Services for Victims

Sponsors: Senators Cooke & Gonzales &
Representatives Lynch & Duran
Senate vote: 35 yes
House vote: 64 yes // 1 other

Description: Expands what expenses are allowable to be computed into a restitution order if it immediately stemmed from the crime including but not limited to: long-term or ongoing medical expenses, reimbursement for insurance deductibles, replacement costs for damaged or destroyed property, travel expenses, childcare expenses, and reimbursement for lost wages. Requires the Department of Corrections to take any federal stimulus payments meant for an inmate to be directed towards payment of restitution. Any remaining balance will be placed in an inmate's bank account. There is also the creation of the "Office of Restitution Services" in the Judicial Department that is tasked with assisting victims with issues related to court-ordered restitution, including creating and maintaining a website with resources and information regarding restitution.

SB22-050 – Work Opportunities for Offenders in Department of Corrections

Sponsors: Senators Coleman & Hisey and
Representatives Soper & Exum
Senate vote: 33 yes // 2 other
House vote: 54 yes // 10 no // 1 other

Description: Eliminates the requirement that DOC Correctional Industries make a profit, thereby allowing DOC to focus on work programs that benefit the reentry and reintegration of people leaving prison rather than focusing on programs that create revenue. Also integrates DOC's Take TWO (Transitional Work Opportunity) program under Correctional Industries and gives DOC greater flexibility to create work programs that focus on providing meaningful work opportunities.

SB22-057 – Violent Crime Victim Brain Injury Screening Program

Sponsors: Senators Cooke & Fields and
Representative Weissman
Senate vote: 34 yes // 1 other
House vote: 55 yes // 7 no // 3 other

Description: Creates the Victims of a Violent Crime Brain Injury Task Force within the Office for Victims Programs within DPS. The goal of the Task Force is to develop a plan by January 1, 2023 for the creation and implementation of a pilot program that would screen, identify and provide support and services to people who may have a brain injury due to having been a victim of a violent crime.

SB22-099 – Sealing Criminal Records

Sponsors: Senators Hisey & Rodriguez and Representative Tipper
Senate vote: 33 yes // 1 no // 1 other
House vote: 61 yes // 4 no

Description: Beginning July 1, 2024, allows automatic record sealing (rather than having to petition the court) for all offenses that are currently eligible to be sealed and requires 3rd party vendors to remove any sealed records from their databases. Law enforcement will still have access to conviction records. It also clarifies and streamlines the record sealing process and requires annual reports to be published.

SB22-211-Repurpose The Ridge View Campus

Sponsors: Senators Fields & Hinrichsen and Representative Valdez
Senate vote: 20 yes // 15 no
House vote: 40 yes // 25 no

Description: In 2021, the Ridge View Youth Services Center was closed which had served justice involved juveniles. SB22-211 provides \$45m to repurpose this facility into a transitional housing program that provides housing, behavioral health treatment, medical care and other vocational services to people experiencing or at risk of experiencing homelessness.

HB22-1003 – Youth Delinquency Prevention and Intervention Grants

Sponsors: Representatives Daugherty & Gonzales-Gutierrez and Senator Gonzales
House vote: 27 yes // 8 no
Senate vote: 41 yes // 22 no // 2 other

Description: Creates the “Delinquency Prevention & Young Offender Intervention Pilot” grant program within DPS (DCJ) to award grants for collaborative projects to reduce violence, crime, and delinquency among youth. Provides \$2.1m a year in funding for two years.

HB22-1063 – Jail Standards Commission

Sponsors: Representatives Amabile & Benavidez and Senators Coleman & Cooke
House vote: 38 yes // 27 no
Senate vote: 27 yes // 5 no // 3 other

Description: Creates a Jail Standards Commission that will promulgate standards for all jails in Colorado. Final recommendations must be presented to the Legislative Oversight Committee for Jail Standards by November 15, 2023.

HB22-1067 – Clarifying Changes to Ensure Prompt Bond Hearings

Sponsors: Representatives Woodrow & Gonzales-Gutierrez and Senator Lee
House vote: 41 yes // 24 no
Senate vote: 21 yes // 14 no

Description: Requires a municipal court to hold a hearing within 48 hours after given notice that a defendant is being held on a municipal hold.

HB22-1098 – Department of Regulatory Agencies Barriers to Practice Regulated Professions

Sponsors: Representatives Bird & Bacon
House vote: 63 yes // 2 other
Senate vote: 33 yes // 2 other

Description: Requires an audit be conducted by June 1, 2023, on various professions and occupations that are regulated by the Department of Regulatory Affairs (DORA) to identify what barriers exist for people with criminal histories in obtaining a license, certification or registration and report their findings by July 1, 2023. Before a state or local agency makes a final determination that a criminal conviction disqualifies an applicant from receiving a license, permit, certification or registration, written notice must be given to the applicant detailing why they were denied, how to submit additional information that may help a determination and other helpful information to an applicant.

HB22-1131 – Reduce Justice-involvement for Young Children

Sponsors: Representatives Gonzales-Gutierrez & Bacon and Senators Coram & Gonzales
House vote: 63 yes // 2 other
Senate vote: 33 yes // 2 other

Description: Creates a Pre-Adolescent Services Task Force in the Department of Human Services (DHS) to examine gaps in services for juveniles who are 10 to 12 years old, if any gaps would be created if the minimum age of prosecution of juveniles is increased from 10 years old to 13, and to make recommendations for addressing the gaps in services identified. A report containing the Task Force recommendations and findings is due by December 30, 2022.

HB22-1281- Behavioral Health Care Continuum Gap Grant Program

Sponsors: Representative Gonzales-Gutierrez and Senators Winter & Rankin
House vote: 46 yes // 19 no
Senate vote: 27 yes // 8 no

Description: Creates the Health Care Continuum Gap Grant Program within the Behavioral Health Administration and provides \$90 million over three years that will fund a variety of behavioral health services to improve access to care.

HB22-1303 – Increase Residential Behavioral Health Beds

Sponsors: Representatives Amabile & Sandridge and Senators Winter & Smallwood
House vote: 51 yes // 14 no
Senate vote: 32 yes // 3 no

Description: Adds 16 civil beds at Fort Logan, that will be used for competency restoration services until the state can reduce the forensic need waitlist and directs Health Care Policy and Financing to contract for an additional 125 mental health beds across the state.

RECOVERY NOT FELONY RALLY

By Pamela Clifton and Christie Donner

Too often at the Capitol, the discussion about a bill's impact actually excludes the voice of the people who lives will actually be impacted. This was certainly the case around the fentanyl bill as law enforcement insisted and relentlessly lobbied legislators and made statements to the media that in order to "help" people addicted to fentanyl, simple possession needed to be made a felony again.

Forty years of a failed drug war clearly proves that threatening a felony conviction doesn't reduce drug use or overdose deaths and is actually counter-productive and inhumane.

In March 2020, possession of 4g or less of a controlled substance became a misdemeanor, per legislation passed in 2019 (HB19-1263), a bill that CCJRC and others worked so hard to pass. This year, when the fentanyl bill was first introduced it didn't include any changes to the simple possession law. After 13 hours of emotional testimony and pressure from law enforcement, the House amended the fentanyl bill to make possession of more than 1g of fentanyl (approx. 10 pills) a felony. As we see it, the potential unintended consequence is that it is common for other drugs (like cocaine or methamphetamine) to contain fentanyl so this amendment not only negatively impacts people who knowingly use fentanyl but anyone who uses drugs. This amendment to the bill forced many, including CCJRC, to oppose the bill.

In an effort to amplify the voices of people who actually know how to help people, CCJRC held a Recovery Not Felony rally on the west steps of the Capitol prior to the Senate vote so that people with lived experience had their own stage to advocate for strategies that support people who chose the path of recovery with dignity, compassion, and respect.



We want to give a big THANKS!!! to the community speakers at the rally: Taj Ashaheed (Second Chance Center), Thomas Hernandez (Tribe Recovery), Candice Bailey (Lighthouse Consultants), Lisa Raville (Harm Reduction Action Center), Leanne Wheeler (CCJRC Board President) and the emcee, Juston Cooper (CCJRC deputy director). And thank the thirty organizations that endorsed the rally!

Our deep appreciation to the legislators who stood and spoke in solidarity with us: Senator Julie Gonzales, Senator Leslie Herod, and Representative Serena Gonzales-Gutierrez.



But most importantly to the recovery community who rolled up deep and wide to the rally and made a huge difference in convincing legislators not to make possession of any quantity of fentanyl a felony. There was a major risk that the Senate would make possession of any quantity of fentanyl a felony and it was your voice that prevented that from happening!

Breaking Down Barriers to Voting

By Juston Cooper

Even though the majority of people in jail are eligible to vote, many do not know that and those that do face many barriers to actually exercising their right to register and vote.

In 2016, CCJRC knew that more had to be done and reached out to the Denver Elections Division and Denver Sheriff's Department to partner on a "Jail Based Voting" project in the Denver Jails. The program focused on registering eligible voters confined in both the Denver County Jail and Denver Detention Center to vote and allow them to vote by mail. There were A LOT of logistics to get in place and the Denver Elections Division and Sheriff's Department were on-board and helping to problem solve all along the way. The pilot gained state and national attention leading to the Denver Elections Division to designate the Denver Jail and Detention Center as a Voting Center to allow the first ever in-person voting in jail starting with the 2020 elections.

CCJRC also worked with a coalition of other organizations to re-enfranchise people on parole with the right to vote and have been registering people on parole ever since at parole offices and in community! We also worked on legislation with other community groups and the Secretary of State to ensure folks confined to jail who are eligible to register to vote and vote have access to voting.

In addition to continuing our support of jail based voting in Denver, we are pleased to announce that this year we are working with the Arapahoe County Jail and Elections Division to implement their jail based voting and in-person voting program. It is our hope that through this continued work, other jails across the state will develop JBV programs that truly provide meaningful access to voting.



CCJRC4Action Wins in Colorado Supreme Court

Earlier this year, a proposed ballot measure was submitted to the Title Board as the first step in the process of getting on the ballot. This measure would change state law and require people convicted of certain violent crimes to have to serve 85% of their sentence before they could be eligible for parole. CCJRC4Action filed an objection with the Title Board and won! The proponents then filed an appeal in the Colorado Supreme Court and lost so this measure will not be on the ballot this November.

CCJRC thanks its sister organization CCJRC4Action for taking on this fight and to its attorney Mark Grueskin for winning!

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!

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This year's Rupert Tate Award goes to the Violence Interruption and Community Healing (VICH) Collaborative! Led by Denver/Aurora based grassroots organizations with decades of collective experience in violence prevention and intervention services, the VICH collaborative offers direct services to youth and their families, gang disengagement, culturally competent clinical - trauma recovery and healing services and educational services to youth involved in violent experiences. For their leadership, vision, love, commitment, and compassion, CCJRC is proud to honor: Struggle of Love Foundation, Life-Line Colorado, Therapists of Color Collaborative, Crowley Foundation, Make A Chess Move, and Heavy Hands-Heavy Heart Foundation.



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