

# Senate Judiciary Committee

## Overview

The Senate Judiciary Committee considers matters concerning civil and criminal proceedings, courts, judges, civil liberties, Colorado's constitution and statutes, the state's correctional system and prison facilities, homeland security, and juvenile justice. In addition, the committee has legislative oversight responsibility for the Department of Corrections, the Department of Public Safety, the Department of Law, and the Judicial Branch.

## Committee Staff

The following legislative staff are assigned to research issues and draft bills that may appear before the House and Senate Judiciary Committees.

### *Legislative Council Staff*

- Juliann Jenson, Senate Judiciary Committee, [juliann.jenson@state.co.us](mailto:juliann.jenson@state.co.us), 303-866-3264
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### *Legislative Legal Services*

- Jeremiah Barry, Managing Senior Attorney, [jerry.barry@state.co.us](mailto:jerry.barry@state.co.us), 303-866-4341
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- Richard Sweetman, Senior Attorney, [richard.sweetman@state.co.us](mailto:richard.sweetman@state.co.us), 303-866-4333

### *Joint Budget Committee*

- Steve Allen, Principal Legislative Analyst, [steve.allen@state.co.us](mailto:steve.allen@state.co.us), 303-866-4961
- Christina Beisel, Legislative Analyst, [christina.beisel@state.co.us](mailto:christina.beisel@state.co.us), 303-866-2149
- Carolyn Kampman, Chief Legislative Analyst, [carolyn.kampman@state.co.us](mailto:carolyn.kampman@state.co.us), 303-866-4959

## Meeting Times and Locations

The Senate Judiciary Committee meets on Monday afternoons beginning at 1:30 p.m., Tuesday mornings upon adjournment of the Senate floor session, and Wednesday afternoons beginning at 1:30 p.m. The committee's designated meeting room is Senate Committee Room 352 on the third floor of the State Capitol. Occasionally, the committee meets in a different room to accommodate larger crowds or the needs of other committees. Changes to the committee's regular schedule are announced on the Senate floor prior to adjournment. Schedule changes will also be communicated through the Twitter feed, by the committee staff. The Twitter feed can be located on the Senate Judiciary Committee web page, <http://leg.colorado.gov/committees/judiciary/2018-regular-session>.

## Committee Web Page

Websites for each committee of reference are maintained by Legislative Council. The Senate Judiciary Committee's web page is available at <http://leg.colorado.gov/committees/judiciary/2018-regular-session>. The site provides a variety of committee information including links to bills, meeting summaries, agency reports, summaries of major legislation, staff memoranda, and other publications.

## Remote Testimony

House Bill 14-1303 authorized the Executive Committee of the Legislative Council to establish policies allowing legislative committees to take testimony at one or more sites around the state. The Executive Committee selected five sites to host remote testimony: Colorado Mesa University in Grand Junction, Otero Junior College in La Junta, Fort Lewis College in Durango, Trinidad Junior College in Trinidad, and Adams State University in Alamosa. Under guidelines adopted by the Executive Committee, the House and Senate are each allotted 500 hours of remote testimony and each caucus in each house has been allotted 250 hours for remote testimony. The leadership of each caucus (President/Speaker/Minority Leader) will determine which bills will be available for remote testimony. Members may request remote testimony on a bill by submitting a completed request form to the caucus leadership at least 3 days prior to the committee hearing. If the request is approved, committee staff will assist the chair and bill sponsor(s) to set up the remote testimony and to ensure that hearing complies with other Legislative Council requirements including calendaring deadlines and accounting for hours of remote testimony.

## Joint Meetings with House Judiciary Committee

***SMART Government Act Hearings.*** The SMART Government Act requires the House and Senate Judiciary committees to hold annual hearings with the Judicial Department, the Department of Corrections, the Department of Law, the Department of Public Safety, the Office of the Alternate Defense Counsel, the Office of the Child's Representative, and the Office of the State Public Defender. At the hearings, the departments must present their annual performance plan, regulatory agenda, and requested budget. The Colorado Commission on Criminal and Juvenile Justice must brief the committee at the hearings, but is not required to comply with other SMART Act provisions. The Judiciary committees held their SMART Act hearings on December 19, 2017, and January 8, 2018.

***Joint oversight hearings.*** Joint Rule 25 of the House and Senate requires the committee to stay advised of the activities, functions, problems, new developments, and budgets of the departments and agencies that are within the committee's jurisdiction. Prior to the 30<sup>th</sup> legislative day, the Joint Budget Committee (JBC) is required to be available to explain any JBC responses or recommendations concerning the budget request for these departments and agencies. This joint hearing is scheduled for January 30, upon adjournment, in Room 271.

***Sex Offender Management Board.*** During the legislative session, the House and Senate Judiciary Committees are required to meet to hear a presentation from the Sex Offender Management Board, and may meet jointly to hear other matters. The shared meeting time for both committees is Tuesday mornings upon adjournment of the floor proceedings

## Stakeholders

The following entities are stakeholders that regularly appear before the General Assembly regarding criminal law and procedure, civil law, courts, and corrections issues.

- *Alternate Defense Counsel.* The Alternate Defense Counsel represents court appointed indigent criminal defendants when the State Public Defender's Office declares a conflict of interest.
- *Colorado Association of Chiefs of Police.* The Colorado Association of Chiefs of Police represents the interests of Colorado's police chiefs at the General Assembly.
- *Colorado Bar Association (CBA).* The CBA is an organization of attorneys licensed to practice in Colorado. It is a voluntary membership organization that is not affiliated with licensing or regulating Colorado attorneys. Representatives of specific sections of the CBA also appear before the committee.
- *Colorado Criminal Defense Bar.* The Colorado Criminal Defense Bar is a private, statewide organization of criminal defense attorneys.
- *Colorado District Attorneys' Council (CDAC).* The CDAC is a private organization that advocates on behalf of Colorado's 22 district attorneys. Representatives of individual district attorney's offices also frequently appear before the committee.
- *Colorado State Patrol (CSP).* The CSP is the statewide law enforcement agency in Colorado. It is a division of the Department of Public Safety.
- *Commission on Criminal and Juvenile Justice (CCJJ).* The CCJJ is housed in the Department of Public Safety to perform evidence-based analysis of the criminal justice system in Colorado. The CCJJ is comprised of experts in criminal justice, corrections, mental health, drug abuse, victims' rights, higher education, juvenile justice, local government, and other pertinent disciplines. The CCJJ is charged with making recommendations concerning policies and practices in the criminal and juvenile justice systems.
- *County Sheriffs of Colorado.* The County Sheriffs of Colorado is an association of sheriffs that, among other services, represents sheriffs' interests at the General Assembly. Representatives of individual sheriff's offices also frequently appear before the committee.
- *Department of Corrections (DOC).* The DOC manages correctional facilities controlled by the state, operates programs for offenders, supervises offenders placed in community corrections and on parole, and operates the Youthful Offender System (YOS).
- *Department of Law (commonly known as the Attorney General's Office).* The Department of Law has primary authority for enforcement of consumer protection and antitrust laws, prosecution of criminal appeals and some complex white-collar crimes, the Statewide Grand Jury, training and certification of peace officers, and certain natural resource and environmental matters. The department also represents the state in certain circumstances. The Attorney General is elected by a statewide vote.

- *Department of Public Safety.* The Department of Public Safety is responsible for maintaining, promoting, and enhancing public safety through law enforcement, criminal investigations, fire and crime prevention, emergency management, recidivism reduction, and victim advocacy. The department consists of six divisions: the Executive Director's Office, Colorado State Patrol (CSP, explained above), Division of Fire Prevention and Control, Division of Criminal Justice, Colorado Bureau of Investigation (CBI), and Division of Homeland Security and Emergency Management.
- *Judicial Department.* Also referred to as the Judicial Branch, the Judicial Department interprets and administers the law, resolves disputes, and supervises adult and juvenile offenders on probation. The Chief Justice of the Supreme Court is the executive head of the Judicial Department.
  - The state court system is comprised primarily of four courts: Colorado Supreme Court and Court of Appeals generally serve as appellate courts, and district courts and county courts serve as trial courts. Municipal courts and Denver County courts are not a part of the state court system.
  - The Judicial Department includes the following six independent agencies:
    - *Independent Ethics Commission*, which hears complaints, issues findings, assesses penalties, and issues advisory opinions on ethics-related matters concerning public officers, state legislators, local government officials, or government employees;
    - *Office of Alternate Defense Counsel*, which represents court appointed indigent criminal defendants when the State Public Defender's Office declares a conflict of interest;
    - *Office of the Child's Representative (OCR)*, which provides guardians ad litem, attorney child and family investigators, and child's representatives appointed on behalf of minors/children (under age 18);
    - *Office of the Child Protection Ombudsman*, which serves as an independent and neutral organization to investigate complaints and grievances about child protection services, make recommendations about system improvements, and serve as a resource for persons involved in the child welfare system;
    - *Office of the Respondent Parents' Counsel*, which oversees the provision of legal representation for indigent parents or guardians who are involved in dependency and neglect proceedings; and
    - *Office of the State Public Defender*, which represents indigent persons in criminal and juvenile delinquency cases. Under both the United States and Colorado Constitutions, as well as state law, defendants and respondents in various criminal, delinquency, juvenile, and other matters are to be afforded due process in the courts, including the right to competent legal representation regardless of their financial ability.
- *Victim advocacy and support organizations.* These organizations advocate at the legislature on behalf of victims' rights concerning criminal actions against persons. Examples of organizations include the Colorado Coalition Against Sexual Assault (CCASA) and the Colorado Organization for Victim Assistance (COVA).
- *Uniform State Law Commission.* The Uniform Law Commission drafts uniform laws for the states to consider and enact, so that laws are consistent across jurisdictions. The

Colorado Commission on Uniform State Laws considers uniform acts and recommends legislation to the General Assembly.

## **Glossary of Frequently Used Terms**

**Adjudicated:** Juveniles are not found guilty; they are adjudicated to have committed a delinquent act.

**Asset forfeiture:** A civil action undertaken in combination with a criminal prosecution in Colorado. Generally, Colorado law requires a conviction prior to a forfeiture judgment by the court.

**Bail:** The pretrial release from jail, usually accompanied by conditions of release: rules you must follow as you await the conclusion of your case. Conditions of release might include abstinence from illegal drugs and alcohol, substance abuse testing and treatment, no weapons, an ankle monitor, and regular reporting to a pretrial services program.

**Bond:** The amount of cash or assets a criminal defendant must provide the court to be released from jail. Bond is returned if the defendant continues to appear as required until the case is finished, and may be forfeited if the defendant does not.

**Civil Lawsuit:** A lawsuit where one party attempts to hold another party liable for a wrongdoing. This is not a criminal lawsuit brought by a prosecutor, but instead by a person or group of persons (including an entity, such as a corporation). The same behavior or action may give rise to both a civil lawsuit and a criminal case.

**Colorado Court of Appeals (COA):** The COA hears cases when either a plaintiff or a defendant believes that the trial court made errors in the conduct of the trial. The COA also reviews decisions of several state administrative agencies.

**Colorado Supreme Court:** The Supreme Court hears appeals, but only when it considers the cases to have great significance. The Supreme Court may also answer legal questions from the General Assembly regarding proposed laws. The Supreme Court is also responsible for overseeing the regulation of attorneys and the practice of law, and for reviewing judges standing for retention during elections.

**Community Corrections:** a halfway house. Offenders live there under supervision but go out unsupervised for work or other approved reasons.

**Conservators:** Persons who manage the property of protected persons, compared to guardians, who are charged with the care of individuals. An individual may require both a guardian and a conservator, and one person may be appointed to serve in both roles.

**County Courts:** County courts are courts of limited jurisdiction (compared to district courts' general jurisdiction, explained below), handling civil cases under \$15,000, misdemeanors, civil and criminal traffic infractions, felony complaints, protection orders, and small claims.

**County Sheriff:** The chief law enforcement officer of the unincorporated areas of a county who is responsible for maintaining the peace and enforcing the criminal laws of the state. Counties are responsible for law enforcement, which includes providing jail facilities through the sheriff. County sheriffs are elected for four-year terms, and are subject to review by voters at the end of each term.

**Criminal Case:** A case where a defendant is accused of committing a crime that is prosecuted by the state, usually a district attorney's office. The same behavior or action may give rise to both a civil lawsuit and a criminal case.

**Criminal justice system:** The justice system for adults, *i.e.*, those age 18 and up, compared to the juvenile justice system, which is for children.

**Delinquent act:** violation of a state statute by a juvenile.

**District Courts:** District courts are courts of general jurisdiction (compared to county courts' limited jurisdiction, explained above), handling felony criminal cases, large civil cases, probate and domestic matters, and cases for and against the government, as well as juvenile and mental health cases. District Courts include water courts – one in each of the seven major river basins in Colorado – which have exclusive jurisdiction over cases concerning water matters.

**Direct file:** A district attorney can directly file charges in adult court (*i.e.*, in district court) against a 16 or 17-year-old who is alleged to have committed a class 1 felony, a class 2 felony, one of several specified types of sexual assault, or a felony that is a crime of violence or one of several additional types of sexual assault. The juvenile can challenge the decision to directly file in adult court and ask the adult court judge to decide, after a hearing, whether the case should be sent to juvenile court. If the case does not meet the direct-file requirements, a district attorney who wants to try the case in adult court must petition the juvenile court to transfer the case to adult court.

**Diversion:** A program that diverts defendants from the normal justice process. It may involve sanctions similar to probation. If an offender completes the program successfully, charges are usually dismissed or a guilty plea is set aside, resulting in a much smaller criminal record; however, if the offender fails, prosecution will likely resume.

**Fiduciary:** A person responsible for the property of another. The term includes an executor, administrator, successor personal representative, special administrator, and trustee, or a person performing substantially the same function.

**Firearm:** Colorado law defines a firearm as “any handgun, automatic, revolver, pistol, rifle, shotgun, or other instrument or device capable or intended to be capable of discharging bullets, cartridges, or other explosive charges.”

**Guardians:** Persons who are charged with the care of individuals, called wards, compared to conservators, who manage the property of protected persons. An individual may require both a guardian and a conservator, and one person may be appointed to serve in both roles.

**Jails:** Jails are operated by county sheriffs at county expense for confinement of defendants awaiting trial and for incarceration of those convicted of lesser crimes.

**Judicial districts:** There are 22 judicial districts in Colorado, each headed by an elected district attorney. The state pays 80% of the base salary of the elected district attorney, but other district attorney office salaries and operating expenses are paid by the counties that make up the judicial district.

**Juvenile justice system:** The justice system for children, *i.e.*, those under age 18, compared to the criminal justice system, which is for adults.

**Parole:** A period of supervised living in the community following release from prison.

**Pretrial services:** Programs funded by local governments that gather information on newly arrested defendants for judges to use when making bail decisions. Pretrial services programs also supervise defendants who have been released and are awaiting trial.

**Prisons:** Prisons are run by the Department of Corrections (DOC), or by a private company paid by DOC, for longer term confinement of those convicted of more serious crimes.

**Probate:** A general term referring to a court procedure by which a person's estate is transferred to others. In current usage, "probate" has been expanded to generally include all matters pertaining to administration of estates, including trust administration, guardianships, and conservatorships.

**Probation:** A period of supervised living in the community following conviction that is often imposed instead of a sentence to jail or prison.

**Restitution:** A court-ordered amount that a convicted offender pays to compensate a victim for monetary losses resulting from a crime. Restitution does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages.

**Secure detention:** The state-run equivalent of jail for a child, which is operated by the Division of Youth Corrections, within the Department of Human Services.

**State Court Administrator:** Oversees the daily administration of the Judicial Branch and provides technical and administrative support to the courts and probation services.

**Summons:** An order requiring you to appear in court at a specified time and date.

**Temporary custody:** Juveniles are not arrested; they are taken into temporary custody.

**Youthful Offender System (YOS):** Detention system for juveniles found guilty in adult court or young adults who committed crimes when they were 18 or 19 years old. The YOS is operated by DOC.

### Sources

- *Colorado Department of Corrections*
- *Colorado Department of Law, Office of Attorney General*
- *Colorado Department of Public Safety*
- *Colorado District Attorneys' Council*
- *Colorado Judicial Branch*
- *Colorado Revised Statutes*
- *Joint Budget Committee*
- *Legislative Council Staff*