

Criminal and Juvenile Justice System

Summary of
Legislation
2023

During the 2023 legislative session, the General Assembly passed an array of measures concerning the criminal and juvenile justice system. Lawmakers specifically debated policies about courts, crime, incarceration, sentencing, behavioral health, and law enforcement. The following is a recap of the major legislation considered in these subject areas.

Judicial Discipline

Three bills aim to improve discipline procedures and workplace culture within the Judicial Branch.

Procedures, reporting, and confidentiality.

House Concurrent Resolution 23-1001 asks Colorado voters to approve a constitutional amendment to change how disciplinary hearings for judges are handled. The resolution establishes a separate, independent body to conduct disciplinary hearings and to hear certain appeals. The amendment also makes judicial misconduct proceedings public at the commencement of formal proceedings instead of when a recommendation for a public sanction is made. Lastly, the resolution creates the 13-member Rulemaking Committee to propose rules for the Commission on Judicial Discipline.

House Bill 23-1019 makes several other statutory changes to the Commission on

Judicial Discipline, including requiring the commission to have a point of contact for complaints, allowing complaints to be submitted online, and collect certain information for reporting purposes.

Ombudsman Office. Lawmakers heard testimony about judicial employees fearing professional retaliation for filing complaints, in addition to difficulties navigating the complaint process system itself.

House Bill 23-1205 establishes the Office of the Judicial Discipline Ombudsman to respond to and support judicial staff in reporting misconduct.

Penalties and New Crimes

The General Assembly passed bills that created new crimes or changed criminal penalties for several existing crimes.

Auto theft. Colorado has led the nation in auto theft per capita over the past few years, and lawmakers made reversing this trend a top priority. *Senate Bill 23-097* eliminates provisions that tie the value of a stolen vehicle to the penalty and makes most motor vehicle theft a felony. State law previously used a car's value as a threshold to determine if the auto theft was a felony or a misdemeanor.

Indecent exposure. *House Bill 23-1135* reclassifies criminal penalties for indecent exposure from a class 1 misdemeanor to a



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class 6 felony if committed in view of a person who is under 18. With this change, penalties for in-person indecent exposure are aligned to those that occur over a computer.

False reporting of an emergency.

Senate Bill 23-249 makes falsely reporting a mass shooting or an active shooter a class 6 felony. The bill also expands the crime of false reporting an emergency to include when a threat causes a shelter-in-place order or results in the initiation of a standard response protocol. Finally, the bill adds false reporting of an emergency that is a bias-motivated crime to the Victim's Rights Act.

Felony reclassification. As part of a long running effort to overhaul Colorado's criminal code, *House Bill 23-1293* increases and decreases penalty levels for many felony crimes, modifies some crimes, creates a new crime, and eliminates some mandatory sentences. The full breakdown of changes can be found [here](#).

Good Samaritan. *House Bill 23-1167* grants immunity from criminal prosecution for people who aid someone experiencing a drug or alcohol overdose. Additionally, the measure makes it a level 1 drug misdemeanor, rather than a level 3 or level 4 drug felony, for certain drug offenses where a person involved remains on the scene and reports an overdose to an emergency responder.

Lasers pointing at aircrafts. Pointing lasers at an aircraft is already a federal crime,

but *Senate Bill 23-095* also makes it a state-level crime. The bill makes it unlawful to knowingly aim the beam of a laser device at an aircraft in flight or on the ground, punishable as a class 6 felony. Exceptions are provided for authorized individuals conducting research, flight tests, or training, and if the laser device is used to send an emergency distress signal.

Incarceration

A number of bills aimed to improve conditions for individuals serving time in jail or prison.

Restraints. Correctional staff are allowed to use restraints in high risk situations to protect staff, the overall security of a facility, and the inmate from self-harm.

House Bill 23-1013 sets new rules for how and when inmates may be restrained. The bill also prohibits the use of involuntary medication unless certain conditions are met and creates an involuntary medication committee comprised of psychologists, psychiatrists, mental health providers, and a facility superintendent.

Phone calls. State lawmakers heard testimony about the high costs of calling home from inside Colorado prisons and youth detention centers. To alleviate this financial burden, *House Bill 23-1133* requires the state to cover free phone calls to help incarcerated people stay better connected to family and friends.

Family time. Public testimony before the committee emphasized that family visits in



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correctional facilities help to reduce recidivism and strengthen parent-child relationships. *Senate Bill 23-039* takes steps to facilitate communication and family time between children and parents who are incarcerated. The bill specifically makes several changes to the dependency and neglect process for parents who are incarcerated and addresses permanent placements, rights of incarcerated parents, dispositional hearings, and treatment plans, among other provisions.

Sentencing

The General Assembly made a number of changes in sentencing policies and practices.

Pregnant defendants. Legislators learned about the unique challenges of being pregnant in prison or jail, including the lack of adequate health care, staffing, and parental bonding, among other issues. *House Bill 23-1187* encourages courts to offer alternative sentencing and bond amounts for defendants who are pregnant. The bill specifically seeks to ensure that pregnant defendants can give birth, recover, and care for their newborns in the community.

Education. *House Bill 23-1037* allows inmates convicted of nonviolent felonies to shorten their sentences by completing a higher education degree or certification. Specifically, an offender receives 2 years of earned time for a doctoral degree, 1.5 years for a master's degree, 1 year for an associate or baccalaureate degree, and 0.5 year for a certificate or other similar credential.



Enhanced sentencing. *House Bill 23-1292* allows certain defendants in violent crime cases to serve sentences for multiple charges concurrently rather than consecutively. These provisions, however, exclude people with certain prior convictions involving serious bodily injury, death, firearms, and explosives. The bill also allows persons sentenced as violent and habitual offenders to petition the court to modify their sentences.

Clemency. *House Bill 23-1214* would have standardized how prison inmates apply for a sentence to be commuted. The bill was vetoed by the Governor, who cited that it unconstitutionally infringed on the governor's power over clemency.

Juveniles

State lawmakers looked for ways to enhance the fairness and effectiveness of the juvenile justice system.

Lying to juveniles. Police in most states are legally permitted to use deception in interrogations to coerce confessions. Legislators heard from experts, however, that this practice may lead to wrongful convictions, especially with younger defendants. In an effort to curb this practice, *House Bill 23-1042* limits how law enforcement may use deceptive tactics when interrogating children. The bill specifically makes any statements obtained by juveniles during custodial interrogations inadmissible in court if law enforcement knowingly presented false information. Law enforcement officers are also required to

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record all juvenile interrogations to receive training on interrogating juveniles.

Reduce justice-involvement.

House Bill 23-1249 originally intended to ban the arrest and prosecution of children under 13 for most crimes. The bill, in its final version, continues to allow prosecution of children as young as 10, but law enforcement may refer them to community programs instead of the juvenile justice system. This was the second attempt in two years to limit the arrest of young children.

Behavioral Health

Two bills about competency to stand trial made their way to the Governor's desk.

Juvenile competency. In an effort to streamline the juvenile competency-to-proceed process, *House Bill 23-1012* redefines key terms around competency for juvenile defendants and updates related laws. Specifically, the bill makes it easier for prosecutors, defense attorneys, guardians ad litem, and other stakeholders in a juvenile criminal proceeding to access competency and restoration evaluations. The bill also allows the court or a party to the case to raise the need for a restoration evaluation of a juvenile's competency. Lastly, the bill establishes a maximum amount of time before the court must find a juvenile is unable to be restored to competency and to determine if a management plan for the juvenile is necessary.

Adult competency. Starting July 1, 2024, *House Bill 23-1138* creates a way for individuals found incompetent to proceed in the criminal justice system to move to the civil involuntary system for short-term treatment. The bill also addresses due process and the civil certification process to facilitate the dismissal of charges.

Law Enforcement

State lawmakers provided law enforcement entities with instructions about how to execute no-knock warrants and codified Miranda rights.

No-knock warrants. *Senate Bill 23-254* places new restrictions on the use of no-knock and knock-and-announce warrants. The bill specifically establishes that courts can only authorize a no-knock warrant if there is a credible threat to a person's life and outlines time restrictions, law enforcement identification protocols, body-worn camera use, and response time for occupants. The bill also lays out clear procedures for executing other search warrants.

Miranda rights. *House Bill 23-1155* prohibits the court from admitting as evidence a statement made by a defendant unless the defendant received a statement of their Miranda Rights (the right to remain silent and have an attorney present). This bill ensures that Miranda rights are enshrined in state law following a U.S. Supreme Court ruling that limited the ability to enforce these rights.

