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## MEMORANDUM

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**TO:** Sentencing in the Criminal Justice System Interim Study Committee

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**SUBJECT:** Overview of Colorado's Sentencing Scheme

### Summary

This memorandum provides an overview of the sentencing categories in state law for felony and misdemeanor offenses, including special offender sentencing. The memorandum also explains the sentencing scheme for drug offenses and for habitual offenders. There are two appendices that accompany this memorandum. Appendix A provides a summary of sentencing legislation since 2010. Appendix B lists the ranges for felony presumptive sentencing and special sentencing categories.

### Background

Colorado law recognizes several categories of crimes, including felonies, misdemeanors, drug felonies, drug misdemeanors, petty offenses, traffic offenses, and traffic infractions. This memorandum addresses sentencing for felonies, misdemeanors, and drug offenses.

Felonies are categorized into classes 1 through 6, and misdemeanors into classes 1 through 3; with a class 1 offense being the most serious. For each class of felony and misdemeanor, Colorado law specifies a presumptive sentencing range. However, the General Assembly has adopted several special sentencing categories that provide the court with the discretion to impose a sentence to the Department of Corrections (DOC) that is shorter or longer than the presumptive range if certain circumstances exist.

Drug felonies are categorized into levels 1 through 4, with a level 1 drug felony being the most serious. There are two levels of drug misdemeanors; level 1 drug misdemeanors are more serious than level 2 drug misdemeanors.

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## Felony Sentencing

**Presumptive sentencing ranges for felonies.** Table 1 summarizes the presumptive sentencing for felonies under current law.

**Table 1**  
**Presumptive Sentencing for Felonies Committed on or After July 1, 1993**

Class of Crime	Minimum Sentence <sup>a</sup>	Maximum Sentence <sup>a</sup>	Mandatory Parole
<b>Class 1</b>	Life Imprisonment	Death <sup>b</sup>	—
<b>Class 2</b>	8 years, \$5,000 fine	24 years, \$1,000,000 fine	5 years
<b>Class 3</b>	4 years, \$3,000 fine	12 years, \$750,000 fine	5 years
<b>Class 4</b>	2 years, \$2,000 fine	6 years, \$500,000 fine	3 years
<b>Class 5</b>	1 year, \$1,000 fine	3 years, \$100,000 fine	2 years
<b>Class 6</b>	1 year, \$1,000 fine	18 months, \$100,000 fine	1 year
<b>Unclassified Felonies</b>	Specified in statute <sup>c</sup>	Specified in statute <sup>c</sup>	—

Source: Section 18-1.3-401 (1)(a)(V)(A), C.R.S.

<sup>a</sup>Sentences may include imprisonment, fine, or both.

<sup>b</sup>Juveniles convicted as adults for class 1 felonies may be sentenced to life imprisonment with the possibility of parole after serving 40 years (Section 18-1.3-401 (4), C.R.S.).

<sup>c</sup>Unclassified felonies are punishable as provided in the statute defining them (Section 18-1.3-402, C.R.S.). If the penalty is not fixed by statute, the punishment is a maximum 5 years in prison, maximum \$15,000, or both (Section 18-1.3-403, C.R.S.).

Not all persons convicted of a felony receive a sentence to prison. State law authorizes many alternatives to prison, including deferred prosecution, deferred sentencing, probation, and community corrections. Further, as noted in Table 1, felony sentences may include a fine instead of, or in addition to, a sentence to prison. However, a person who commits a second or subsequent felony offense is not eligible to receive a fine in lieu of a prison sentence. In those circumstances, the offender must be sentenced to at least the minimum sentence of imprisonment, and may be assessed a fine in addition to the prison sentence.<sup>1</sup>

**Class 1 felonies committed by juveniles.** Juvenile offenders are not subject to the death penalty in Colorado. If a juvenile is convicted as an adult of a class 1 felony, a court must sentence the juvenile to a term of life imprisonment with the possibility of parole after 40 years, less any earned time granted while in prison. If such offenders are granted parole, they are not subject to discharge from parole at any time.<sup>2</sup>

<sup>1</sup>Section 18-1.3-401 (1)(b)(II), C.R.S.

<sup>2</sup>Section 18-1.3-401 (4)(c), C.R.S.

## Special Sentencing

There are six special sentencing categories for felonies that affect the presumptive sentencing range:

- crimes with extraordinary aggravating or mitigating circumstances (no specific circumstances listed);
- crimes with specific extraordinary aggravating circumstances;
- crimes with certain victims;
- crimes of violence;
- crimes with sentencing-enhancing circumstances; and
- crimes presenting an extraordinary risk of harm to society.

In addition, the presumptive sentencing range may be increased if offenders are deemed "habitual offenders." Further detail on each special sentencing category is provided below. Appendix B summarizes all of the possible sentencing ranges for felonies, including special sentencing categories. Habitual offender sentencing is discussed in the final section of this memorandum.

***Crimes with extraordinary aggravating or mitigating circumstances.*** The court may impose a sentence that is lesser or greater than the presumptive range when it finds that extraordinary mitigating or aggravating circumstances are present.<sup>3</sup> The factors may be determined by the court based on evidence in the record at the sentencing hearing and information contained in a presentence investigation report. When such circumstances are found, the court may not impose a sentence that is less than one-half of the minimum or more than twice the maximum of the presumptive range.

For example, for a class 3 felony, the presumptive sentencing range is 4 to 12 years imprisonment. The sentencing range for crimes with extraordinary mitigating or aggravating circumstances is 2 to 24 years (one-half of the minimum to twice the maximum of the presumptive range). In this special sentencing category, state law does not list specific mitigating or aggravating circumstances; such factors are at the court's discretion. However, the separate special sentencing category of crimes with extraordinary aggravating circumstances does list specific circumstances that require a longer sentence.

***Specific extraordinary aggravating circumstances.*** Any offender convicted of a crime with extraordinary aggravating circumstances must be sentenced to a term of at least the midpoint in the presumptive range but not more than twice the maximum term.<sup>4</sup> The scenarios under which an offender may be charged with a crime that has extraordinary aggravating circumstances are:

- the defendant is convicted of a crime of violence (see "*Crimes of violence*," below);
- the defendant was on parole for another felony at the time that he or she committed the felony offense;
- the defendant was on probation or was on bond while awaiting sentencing following revocation of probation for another felony when he or she committed the felony offense;
- the defendant was under confinement, in prison or in any correctional institution, as a convicted felon, or was an escapee from confinement in any correctional institution for another felony when he or she committed the felony offense;

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<sup>3</sup>Section 18-1.3-401 (6), C.R.S.

<sup>4</sup>Section 18-1.3-401 (8), C.R.S.

- the defendant was on appeal bond following a conviction for a previous felony when he or she committed the felony offense; or
- at the time he or she committed the offense, the defendant was on probation, or on bond while awaiting sentencing following revocation of probation, for a delinquent act that would have been a felony if committed by an adult.

Colorado law further specifies that the following offenders must be sentenced for a term of at least the midpoint in the presumptive range but not more than twice the maximum term:

- offenders convicted of class 2 or class 3 felony child abuse;
- offenders convicted of class 2 felony sexual assault that occurred prior to November 1, 1998; and
- offenders convicted of class 3 or class 4 felony vehicular homicide who were, while committing vehicular homicide, in flight from the commission of another felony.

Offenders convicted of class 2 felony sexual assault that occurred after November 1, 1998, must be sentenced for an indeterminate sentence of at least the midpoint of the presumptive range and up to the offender's natural life.

Nothing precludes the court from considering aggravating circumstances other than those listed in law as the basis for sentencing a defendant to a term greater than the presumptive range, and the court may consider circumstances such as serious bodily injury or use of a weapon in the commission of the crime even if those factors are elements of the offense.

**Crimes with certain victims.** Under Colorado law, penalties may be affected when certain classes of people are the victims of an offense. Courts are required to sentence to prison an offender who is convicted of first or second degree assault when the victim of the assault is a peace officer, fire fighter, or emergency medical service provider engaged in the performance of his or her duties. A fine may be imposed in addition to the prison sentence.<sup>5</sup>

Any offender convicted of a crime against a pregnant person must be sentenced to a term of at least the midpoint in the presumptive range but not more than twice the maximum term. The court must find, on the record, that the victim was pregnant at the time of the offense, and that the offender knew or reasonably should have known that the victim was pregnant. Such enhanced sentencing applies when the offender commits one of the following offenses:

- second degree murder;
- manslaughter;
- criminally negligent homicide;
- first or second degree assault; or
- vehicular assault.<sup>6</sup>

**Crimes of violence.** Criminal actions that (1) involve the use, possession, or threat of a deadly weapon or (2) cause serious bodily injury or death of any other person except the offender are classified by Colorado law as crimes of violence and subject to enhanced sentencing. These crimes include:

- any crime against an at-risk adult or at-risk juvenile;
- murder;

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<sup>5</sup>Section 18-1.3-401 (1)(b)(IV), C.R.S.

<sup>6</sup>Section 18-1.3-401 (13), C.R.S.

- first or second degree assault;
- kidnapping;
- a sexual offense;
- aggravated robbery;
- first degree arson;
- first degree burglary;
- escape;
- criminal extortion;
- first or second degree unlawful termination of pregnancy; and
- any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

*Sentencing requirements.* Any offender convicted of a crime of violence must be sentenced to a term of incarceration of at least the midpoint in the presumptive range but not more than twice the maximum term for the offense, as modified by the extraordinary risk crime statute (discussed below) in the DOC; these ranges are shown in Appendix B. An offender convicted of a sex offense that is a crime of violence must be sentenced to an indeterminate term that is at least the midpoint of the presumptive range to a maximum of the offender's natural life. An offender who is convicted of a crime of violence and used a dangerous or semiautomatic assault weapon must also be sentenced to an additional five years in the DOC.

*Exceptions to sentencing requirements.* In addition, within 91 days of an offender being placed within the Department's custody, the DOC is required to send the sentencing court a report on the evaluation and diagnosis of the offender. In certain cases and after at least 119 days have passed, the court may then modify an offender's sentence to include probation or other reductions. For most crimes of violence, if an offender has committed two or more separate crimes of violence arising out of the same incident, the court must sentence the offender to serve those terms consecutively rather than concurrently. An exception is created when one of these crimes is aggravated robbery, second degree assault, or escape.

***Crimes with sentencing-enhancing circumstances.*** Offenders convicted of a crime with sentence-enhancing circumstances must be sentenced to at least the minimum but not more than twice the maximum of the presumptive range.<sup>7</sup> Sentencing-enhancing circumstances include the following:

- at the time of the commission of the felony, the defendant was charged with or was on bond for a previous felony and was subsequently convicted of that previous felony;
- at the time of the commission of the felony, the defendant was charged with or was on bond for a delinquent act that would have constituted a felony if committed by an adult;
- when the defendant committed the felony, he or she was on bond for having pled guilty to a lesser offense when the original offense charged was a felony;
- the defendant was under a deferred judgement and sentence for another felony when he or she committed the felony;
- at the time of the commission of the felony, the defendant was on bond in a juvenile prosecution for having pled guilty to a lesser offense when the original offense charged was an offense that would have constituted a felony if committed by an adult;
- at the time the felony was committed, the defendant was under a deferred judgement and sentence for another offense that would have constituted a felony if committed by an adult; and

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<sup>7</sup>Section 18-1.3-401 (9), C.R.S.

- when the defendant committed the felony, he or she was on parole for having been adjudicated a delinquent child for an offense which would constitute a felony if committed by an adult.

**Crimes presenting an extraordinary risk of harm to society.** Colorado law designates certain crimes as presenting an extraordinary risk of harm to society and provides for increased sentencing ranges. The sentence enhancer applies to felony convictions of:

- aggravated robbery;
- child abuse;
- unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance with the intent to sell, distribute, manufacture or dispense it;
- any crime of violence;
- stalking;
- sale or distribution of materials to manufacture controlled substances;
- felony invasion of privacy for sexual gratification;
- a class 3 felony offense of human trafficking for involuntary servitude or sexual servitude; and
- second degree assault.

*Sentence enhancers.* As shown in Appendix B, the maximum sentences for offenders convicted of these crimes are increased as follows:

- four additional years for a class 3 felony;
- two additional years for a class 4 felony;
- one additional year for a class 5 felony; and
- six months for a class 6 felony.

**Offenders subject to multiple sentencing categories.** When an offender is charged with a crime that involves more than one special sentencing category, the sentencing range is first increased to account for a crime that presents an extraordinary risk of harm to society, and is then further adjusted according to any other special sentencing categories that apply. For example, because a class 3 felony crime of violence is also a crime that presents an extraordinary risk of harm to society, an offender charged with such a crime is first subject to an extraordinary risk of harm sentence of 4 to 16 years (4 years longer than the maximum range for a class 3 felony), and then must be sentenced to at least the midpoint and up to twice the maximum of the extraordinary risk presumptive range, for an overall range for 10 to 32 years.<sup>8</sup>

## Misdemeanor Sentencing

**Presumptive sentencing ranges for misdemeanors.** Table 2 summarizes the presumptive sentencing for misdemeanors under current law.

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<sup>8</sup>See *People v. Martinez*, 32 P.3d 582, 584 (Colo. Ct. App., 2001) (applying that formula to a sentence for second degree murder).

**Table 2**  
**Sentencing Scheme for Misdemeanors**

Class of Misdemeanor	Minimum Sentence	Maximum Sentence
<b>Class 1</b>	6 months jail \$500 fine or both	18 months jail \$5,000 fine or both
<b>Class 2</b>	3 months jail \$250 fine or both	12 months jail \$1,000 fine or both
<b>Class 3</b>	\$50 fine	6 months jail \$750 fine or both
<b>Unclassified</b>	Specified in statute	Specified in statute

Source: Section 18-1.3-501, C.R.S.

Terms of imprisonment for misdemeanors are served in county jails, unless it is being served concurrently with a felony sentence in a state correctional facility. Not all persons convicted of a misdemeanor receive a sentence to jail. Many offenders receive a sentence to probation, and offenders may also be sentenced to perform community or useful public service. Special sentencing categories for misdemeanors that affect the presumptive sentencing range are crimes presenting an extraordinary risk of harm to society, and specified crimes against certain victims. Further detail on each special sentencing category is provided below.

***Misdemeanors that present an extraordinary risk of harm to society.*** Maximum sentences for offenders convicted of misdemeanors presenting an extraordinary risk of harm to society are increased by six months.<sup>9</sup> Such crimes, which are all class 1 misdemeanors, are the following:

- third degree assault;
- class 1 misdemeanor sexual assault when the victim is at least 15 years old but less than 17 years old and the actor is at least 10 years older than the victim and is not the victim's spouse;
- class 1 misdemeanor unlawful sexual contact;
- knowing or reckless child abuse resulting in injury other than serious bodily injury;
- violation of a protection order (second and subsequent offenses);
- misdemeanor failure to register as a sex offender; and
- misdemeanor invasion of privacy for sexual gratification.

***Enhanced sentencing for specified crimes against certain victims.*** If the victim of third degree assault is pregnant, the offender must be sentenced to a minimum six months imprisonment, but not more than the maximum 24 month term for third degree assault.<sup>10</sup> The court must find, on the record, that the victim was pregnant at the time of the offense, and that the offender knew or reasonably should have known that the victim was pregnant.

<sup>9</sup>Section 18-1.3-501 (3), C.R.S.

<sup>10</sup>Section 18-1.3-501 (6), C.R.S.

If the victim of third degree assault is a peace officer, emergency medical service provider, emergency medical care provider, or firefighter engaged in the performance of his or her duties, the penalties for an extraordinary risk crime are increased further.<sup>11</sup> Offenders convicted of such crimes must be sentenced to at least the maximum sentence for third degree assault, and no more than twice the maximum sentence. Because third degree assault is already an extraordinary risk crime, offenders convicted of third degree assault against specified victims must be sentenced to a term of 24 to 48 months in jail. Such offenders may also be fined in accordance within the range for third degree assault.

If the victim of class 1 misdemeanor third degree assault or class 3 misdemeanor reckless endangerment is a mental health professional who is engaged in the performance of his or her duties and is employed by or under contract with the Department of Human Services, the offender may be sentenced to a term of imprisonment greater than the maximum sentence but not more than twice the maximum sentence for third degree assault or reckless endangerment. For third degree assault, the sentence may be 6 to 48 months in jail; for reckless endangerment, the sentence may be up to 12 months in jail. Courts may also impose a fine on such offenders in accordance with the range applicable to the offense committed.<sup>12</sup>

Table 3 summarizes how the sentencing range for third degree assault against specified victims and for reckless endangerment against Department of Human Services' mental health professionals differs from the sentencing ranges for standard class 1 misdemeanor third degree assault (an extraordinary risk crime), and from the ranges for standard class 1 misdemeanors and reckless endangerment.

**Table 3**  
**Enhanced Sentencing Ranges for Certain Misdemeanors Compared to Normal Presumptive Sentencing Ranges**

Offense	Classification	Range of Imprisonment	Fine
Third degree assault when the victim is a peace officer, emergency medical service provider, emergency medical care provider, or firefighter	Class 1 misdemeanor and an extraordinary risk crime	24 to 48 months*	\$500 to \$5,000
Third degree assault when the victim is a mental health professional at the Department of Human Services	Class 1 misdemeanor and an extraordinary risk crime	6 to 48 months	\$500 to \$5,000
Third degree assault	Class 1 misdemeanor and an extraordinary risk crime	6 to 24 months**	\$500 to \$5,000
Class 1 misdemeanor		6 to 18 months	\$500 to \$5,000
Reckless endangerment when the victim is a mental health professional at the Department of Human Services	Class 3 misdemeanor	Up to 12 months	\$50 to \$750
Reckless endangerment	Class 3 misdemeanor	Up to 6 months	\$50 to \$750

Source: Section 18-1.3-501, C.R.S.

\*Required to be sentenced to the minimum term of imprisonment.

\*\*If the victim is pregnant, a court must sentence the offender to at least the minimum 6 months imprisonment, but not more than the maximum 24 months.

<sup>11</sup>Section 18-1.3-501 (1.5), C.R.S.

<sup>12</sup>Section 18-1.3-501 (1.7), C.R.S.



## Drug Sentencing

In 2013, the General Assembly passed Senate Bill 13-250, which made extensive changes to the penalties and sentencing options for drug crimes. The law went into effect on October 1, 2013, and:

- created a new sentencing grid for drug felonies (DFs) and drug misdemeanors (DMs);
- created new qualifying amounts for felonies, misdemeanors, and petty offenses;
- allowed for some offenders to avoid a drug felony conviction when certain conditions are met (an option known as “the wobbler”);
- instructed the court to exhaust all remedies before sentencing some drug offenders to the DOC;
- prohibited plea agreements that require defendants to waive their right to petition to seal conviction records; and
- expanded sentencing options.

**Drug sentences.** Table 4 shows the penalty ranges for drug offenses. The court may use the ranges below to sentence an offender to a term of incarceration in prison (for DFs) or jail (for DMs), to impose a fine, or both.

**Table 4  
Penalties for Drug Offenses**

Offense Level	Presumptive Range	Aggravated Range	Mandatory Parole
DF 1	8 to 32 years \$5,000 to \$1,000,000	—	3 years
DF 2	4 to 8 years \$3,000 to \$750,000	8 to 16 years \$3,000 to \$750,000	2 years
DF 3	2 to 4 years \$2,000 to \$500,000	4 to 6 years \$2,000 to \$500,000	1 year
DF 4	6 months to 1 year \$1,000 to \$100,000	1 to 2 years \$1,000 to \$1,000,000	1 year
DM 1	6 to 18 months \$500 to \$5,000	—	—
DM 2	Up to 12 months \$50 to \$750	—	—

Source: Section 18-1.3-401.5, C.R.S. (drug felonies) and Section 18-1.3-501 (1)(d), C.R.S. (drug misdemeanors).

Aggravating factors that trigger a sentence between the midpoint of the presumptive range to the maximum of the aggravated range include being:

- on parole for another felony;
- on probation or on bond awaiting sentencing following revocation of probation for another felony or for a delinquent felony act (for juveniles); and
- in prison, community corrections, or on escape status.<sup>13</sup>

<sup>13</sup>Section 18-1.3-401.5 (10)(a), C.R.S.

Sentence-enhancing factors that can trigger a sentence in the aggravated range include being:

- charged with or on bond for a felony or a felony delinquent act;
- on bond for any offense as a plea when the original offense was a felony or felony delinquent act;
- on a deferred judgment and sentence for a felony delinquent act; and
- on parole for a felony delinquent act.<sup>14</sup>

As a result of SB 13-250, the classification of several drug crimes changed. Distribution of less than five pounds of marijuana was reclassified from a class 5 felony to either a level 3 drug felony, level 4 drug felony, or level 1 drug misdemeanor. Possession or use of up to eight ounces of marijuana in a detention facility, previously a class 6 felony, became a level 1 drug misdemeanor. Distribution of a schedule V drug by a defendant with no prior convictions, previously a class 5 felony, became a level 1 drug misdemeanor. And abusing toxic vapors, previously a class 1 petty offense, became a level 2 drug misdemeanor.

**The wobbler.** Under current law, an alternative sentencing option known as the wobbler allows some drug offenders to avoid a felony conviction when certain conditions are met.<sup>15</sup> To be eligible for the wobbler, the offender must have committed one of four specific level 4 drug offenses, have no prior convictions for violent crimes, no convictions that would have disqualified him or her from probation, and fewer than two prior felony drug convictions. Under this provision, upon completion of a sentence to probation or community corrections, an offender's level 4 drug felony conviction is vacated and replaced with a level 1 drug misdemeanor conviction.

**Exhaustion of all other remedies.** When sentencing an offender convicted of a level 4 drug felony, the court must consider all sentencing options before sending an offender to the DOC.<sup>16</sup> When making the determination of a proper sentence, the court must consider:

- the facts of the case;
- the defendant's willingness to participate in treatment;
- whether or not all other sanctions have been tried and failed;
- if other sanctions are unlikely to work; and
- if other sanctions present an unacceptable public safety risk.

**Expanded sentencing options.** Colorado law allows offenders convicted of drug misdemeanors to participate in intensive supervision probation if they were assessed as high risk.<sup>17</sup> Before 2013, only those with felony convictions were eligible for this option. Current law also allows the court to give a second chance to drug offenders who violate the terms of a deferred judgment. At its discretion, the court can give drug offenders another opportunity to complete their sentence and have the charges against them dismissed.<sup>18</sup>

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<sup>14</sup>Section 18-1.3-401.5 (11)(a), C.R.S.

<sup>15</sup>Section 18-1.3-103.5, C.R.S.

<sup>16</sup>Section 18-1.3-104.5, C.R.S.

<sup>17</sup>Section 18-1.3-208, C.R.S.

<sup>18</sup>Section 18-1.3-102, C.R.S.

## Habitual Offenders

Under current law, a person is adjudicated as an habitual criminal and is subject to enhanced sentencing if:

- he or she is convicted of a third, separate class 1 or 2 felony, level 1 drug felony, or class 3 felony crime of violence;
- he or she is convicted of a class 1, 2, 3, 4, or 5 felony or a level 1, 2, or 3 drug felony and has two previous, separate felony convictions within the last ten years; or
- he or she is convicted of any felony and has three previous, separate felony convictions.

For offenders who commit a third class 1 or 2 felony, level 1 drug felony, or class 3 felony crime of violence, the penalty for their conviction as an habitual offender is life in prison with the possibility of parole after 40 years. For offenders with two previous, separate felony convictions, the penalty is a sentence to the DOC for a term of three times the maximum of the presumptive range. If the offender's third offense was a level 1 drug felony, the penalty is 48 years in prison. For offenders with three previous, separate felony convictions, the penalty for his or her conviction as an habitual criminal is a sentence of four times the maximum of the presumptive range for the class or level of felony, unless the conviction is for a level 1 drug felony, in which case the sentence is 64 years in prison, or a crime of violence, in which case the sentence is life in prison.<sup>19</sup>

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<sup>19</sup>Section 18-1.3-801, C.R.S.

## **Appendix A**

### **Sentencing Legislation Adopted 2010 to 2017**

**House Bill 10-1352** increased the penalties for several offenses related to controlled substances, resulting in certain crimes being classified as requiring a mandatory period of incarceration or designating the defendant as a special offender.

**House Bill 10-1338** allowed defendants with two or more felony convictions to be considered for probation unless the current or prior offense included specified crimes, such as murder, crimes of violence, and felony offenses committed against a child.

**House Bill 11-1032** authorized the establishment of restorative justice programs to be established and used as an alternative sentencing option or as a condition of probation.

**House Bill 11-1053** clarified that school districts should initiate court proceedings against truant minors or against the parents of such minors in order to compel the attendance of minors in school only as a last resort.

**Senate Bill 11-096** removed the option of sentencing an individual convicted of the class 6 felony of unlawful possession of a controlled substance as a habitual offender. At the time, the court was required to sentence an individual with three prior felony convictions to incarceration for a period that is four times the maximum sentence for the current felony conviction.

**House Bill 12-1213** exempted felony escape or attempt to escape from a place other than a county jail or a correctional facility from the criteria used to designate a person as a habitual criminal for purposes of facing enhanced sentencing for those crimes.

**House Bill 12-1271** raised the minimum age for juveniles who are charged with certain crimes to be prosecuted as adults (a process known as direct filing) from age 14 to age 16 and limited the offenses for which a juvenile can be direct filed to class 1 or class 2 felonies, violent sex offenses, and crimes of violence and certain sex offenses committed by prior felony offenders.

**Senate Bill 13-250** reorganized and reclassified the sentencing scheme and requirements for individuals convicted of drug-related offenses. It required the courts to exhaust alternative sentencing options for certain level 4 felony drug offenses prior to sentencing the offender to prison and added all drug felonies to the habitual sentencing schemes.

**House Bill 14-1023** required the Office of the State Public Defender to hire social workers to assist in juvenile defense cases, potentially reducing the number of youths sentenced to the DYC.

**House Bill 14-1032** required that a juvenile detained for a delinquent act be represented by counsel at a detention hearing and provided state representation when private counsel is not retained. It created specific procedures for the advisement of rights and waiver of counsel.

**House Bill 14-1260** required an indeterminate sentence for a class 2, 3, or 4 felony sex offense when the act includes certain offenses against a child under the age of 12.

**House Bill 14-1266** reduced the penalties for theft crimes based on the value of the goods or property stolen.

**House Bill 14-1355** required the Department of Corrections to develop and implement several programs to decrease recidivism and increase opportunities for offenders to succeed upon release.

**Senate Bill 14-163** increased the penalties for criminal attempt or criminal conspiracy to commit a level 4 drug felony and mandated a sentence of at least the minimum of the presumptive sentencing range for a drug felony offense when a person has been previously twice convicted of a felony.

**House Bill 15-1043** created a class 4 felony Driving Under the Influence (DUI), DUI per se, and Driving While Ability Impaired (DWAI) offense for offenders with three or more prior related offenses. Under the bill, the court is required to consider whether all reasonable and appropriate alternative sentences have been exhausted and that incarceration is the most suitable option before imposing a term of incarceration. The bill also reduced the penalty for aggravated driving with a revoked license from a class 6 felony to a class 1 misdemeanor.

**House Bill 15-1303** removed the mandatory sentencing as a crime of violence for second degree assault committed against a peace officer, firefighter, or emergency medical service provider.

**House Bill 15-1341** increased the penalty for certain cases of sexual exploitation of a child by possession of sexually exploitative material from a class 6 felony to a class 5 felony.

**Senate Bill 15-067** raised the classification for certain forms of third degree assault to second degree assault when the victim is a peace officer, firefighter, emergency medical care provider or an emergency medical service provider.

**Senate Bill 15-184** directed chief judges of each judicial district to create a policy for addressing truancy cases through means other than DYC detention.

**House Bill 16-1066** modified the procedures under which an offender is designated and sentenced as a habitual domestic violence offender by allowing a jury to issue a finding of fact, in addition to a judge.

**Senate Bill 16-051** removed the requirement that a person convicted of two or more separate, specified crimes of violence (aggravated robbery, second degree assault, or escape) arising out of the same incident be sentenced to consecutive prison terms.

**Senate Bill 16-102** removed the mandatory term of incarceration for certain types of second degree assault or violations of bail bond conditions.

**Senate Bill 16-181** allowed juveniles sentenced to life without parole for murder to petition the court for a resentencing hearing and a reduced sentence.

**House Bill 17-1288** required that persons convicted of felony DUI, DUI per se, or DWAI be sentenced to a minimum term in county jail if that offender is sentenced to probation rather than the Department of Corrections.

**House Bill 17-1330** clarified how a conviction for escape or attempted escape may be used to adjudicate an offender as a habitual criminal.

**Appendix B  
Felony Imprisonment Sentencing Ranges**

<b>Class of Crime</b>	<b>Presumptive Range<sup>a</sup></b>	<b>Extraordinary Aggravating or Mitigating Circumstances<sup>b</sup></b>	<b>Sentence-Enhancing Circumstances<sup>c</sup></b>	<b>Extraordinary Aggravating Circumstances<sup>d</sup></b>	<b>Crimes of Violence<sup>e</sup></b>
<b>Class 1<sup>f</sup></b>	Life imprisonment to Death	—	—	—	—
<b>Class 2</b>	8 to 24 years	4 to 48 years	8 to 48 years	16 to 48 years	16 to 48 years
<b>Class 3 (extraordinary risk of harm)<sup>g</sup></b>	4 to 16 years	2 to 32 years	4 to 32 years	10 to 32 years	10 to 32 years
<b>Class 3</b>	4 to 12 years	2 to 24 years	4 to 24 years	8 to 24 years	—
<b>Class 4 (extraordinary risk of harm)</b>	2 to 8 years	1 to 16 years	2 to 16 years	5 to 16 years	5 to 16 years
<b>Class 4</b>	2 to 6 years	1 to 12 years	2 to 12 years	4 to 12 years	—
<b>Class 5 (extraordinary risk of harm)</b>	1 to 4 years	6 months to 8 years	1 to 8 years	30 months to 8 years	30 months to 8 years
<b>Class 5</b>	1 to 3 years	6 months to 6 years	1 to 6 years	2 to 6 years	—
<b>Class 6 (extraordinary risk of harm)</b>	1 to 2 years	6 months to 4 years	1 to 4 years	18 months to 4 years	18 months to 4 years
<b>Class 6</b>	12 to 18 months	6 months to 3 years	1 to 3 years	15 months to 3 years	—

<sup>a</sup>Sentences may include imprisonment, fine, or both; this table only concerns ranges of imprisonment.

<sup>b</sup>Courts may impose a sentence outside of the presumptive range, but it must not be more than twice the maximum, nor less than one-half the minimum of the presumptive range. Section 18-1.3-401 (6), C.R.S.

<sup>c</sup>Courts must sentence the offender to at least the minimum, but no more than twice the maximum of the presumptive range. Section 18-1.3-401 (9), C.R.S.

<sup>d</sup>If the offender is sentenced to imprisonment, the presumptive sentencing range for specified extraordinary aggravating circumstances is at least the midpoint in the presumptive range but not more than twice the maximum term authorized in the presumptive range. Section 18-1.3-401 (8), C.R.S.

<sup>e</sup>Courts must sentence crimes of violence offenders to at least the minimum, but no more than twice the maximum of the presumptive range of the offense as modified for an extraordinary risk crime. Section 18-1.3-406, C.R.S.

<sup>f</sup>Juveniles convicted as adults for class 1 felonies may be sentenced to life imprisonment with the possibility of parole after serving 40 years. Section 18-1.3-401 (4), C.R.S.

<sup>g</sup>Section 18-1.3-401 (10), C.R.S.