

Mandate from HB 24-1135 – Related to requirements for Operating a Motor Vehicle

DURING THE 2024 LEGISLATIVE INTERIM, THE COMMITTEE SHALL STUDY THE ISSUE OF CARELESS DRIVING, DESCRIBED IN SECTION 42-4-1402, THAT RESULTS IN ACCIDENTAL DEATH. THE COMMITTEE SHALL STUDY THE FREQUENCY OF CARELESS DRIVING INCIDENTS THAT RESULT IN ACCIDENTAL DEATH AND WHETHER THE CURRENT POSSIBLE CIVIL AND CRIMINAL CHARGES, INCLUDING CHARGES THAT MAY BE BROUGHT IN ADDITION TO THOSE FOR CARELESS DRIVING, AND ASSOCIATED PENALTIES, ARE APPROPRIATE.

AS PART OF ITS STUDY, THE COMMITTEE SHALL REQUEST INPUT FROM THE COLORADO DISTRICT ATTORNEYS' COUNCIL, THE OFFICE OF STATE PUBLIC DEFENDER ...

DURING THE 2024 LEGISLATIVE INTERIM, THE COMMITTEE SHALL STUDY THE ISSUE OF THE APPROPRIATE PENALTY FOR FAILING TO MAINTAIN MOTOR VEHICLE OR LOW-POWERED SCOOTER INSURANCE AND PRESENT EVIDENCE OF INSURANCE TO A REQUESTING OFFICER, AS REQUIRED IN SECTION 4

AS PART OF ITS STUDY, THE COMMITTEE SHALL REQUEST INPUT FROM COUNTY COURT JUDGES, THE COLORADO STATE PATROL AND OTHER LAW ENFORCEMENT AGENCIES, THE COLORADO DISTRICT ATTORNEYS' COUNCIL, THE OFFICE OF STATE PUBLIC DEFENDER, 2-4-1409.

Legal Principles: Actus Reus and Mens Rea Action/Result and Culpable Mental State

Actus Reus: the physical act of committing the crime

Mens Rea: the mental state

In Colorado, the culpable mental states for criminal offenses are defined under the Colorado Revised Statutes, specifically § 18-1-501. Here are the key mental states:

- 1. Intentionally or With Intent:** A person acts intentionally when their conscious objective is to cause a specific result. [This is considered a specific intent offense¹.](#)
- 2. Knowingly or Willfully:** A person acts knowingly when they are aware that their conduct is of a certain nature or that certain circumstances exist. [This is a general intent crime¹.](#)
- 3. Recklessly:** [A person acts recklessly when they consciously disregard a substantial and unjustifiable risk that a result will occur or that a circumstance exists¹.](#)
- 4. Criminal Negligence:** [A person acts with criminal negligence when they fail to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists, through a gross deviation from the standard of care that a reasonable person would exercise¹.](#)

Other Distinct Culpable Mental States relevant to these crimes

- Extreme Indifference: under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally
- Under Influence or Impaired: strict liability
- Culpability for Careless Resulting in Death: person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving. A person convicted of careless driving of a bicycle, electrical assisted bicycle, or electric scooter is not subject to section [42-2-127](#).

Colorado Crimes involving Death and Driving with Penalty Ranges

- Careless Resulting in Death – TM1 – 10 days to one year
- Criminally Negligent Homicide (traffic accident can be filed as general crime per case law) F5 – 1 year to 3 years and 2 years parole
- Vehicular Homicide
 - Reckless – F4 – 2 years to 6 years – 3 years parole
 - Under influence – F3 – 4 years to 12 years – 3 years parole
 - Impaired – F4- 2 years to 6 years – 3 years parole
- Extreme Indifference Homicide – F1 – life without parole- 2 year

Data on OSPD cases

Will be presented at hearing

No Proof of Insurance NPOI – 42-4-1409

- Traffic misdemeanor 1 – 10 days to 1 year
- Minimum mandatory fine of \$500 dollars. Can get half suspended if get insurance. Statute does not say for how long need to have the insurance
- **Significant number of cases in system** – since jail available as possible penalty must have a DA and appoint a Public Defender. Significant court resources.
- Our lawyers report that no one goes to jail
- Our lawyers report that the mandatory fine is unjust and favors the wealthy and not our clients who are poor or others just trying to get ends to meet. Money is better used to get insurance.

OSPD Cases in 2 years FY 23 and F2Y 24 for NPOI

Office: total, as top charge

Alamosa: 318, 181

Arapahoe: 1174, 480

Boulder: 433, 154

Brighton: 1741, 693

Colorado Springs: 2465, 1210

Denver: 1174, 413

Dillon: 198, 64

Douglas: 366, 120

Durango: 396, 183

Ft. Collins: 783, 387

Glenwood: 219, 76

Golden: 1406, 677

Grand Junction: 967, 647

Greeley: 618, 137

La Junta: 297, 162

Montrose: 509, 279

Pueblo: 1034, 573

Salida: 297, 173

Steamboat: 260, 119

Sterling: 257, 140

Trinidad: 108, 70

Total numbers of OSPD Cases: 6938 where NPOI is the top charge

- OSPD believes there is a better way to effectuate this public policy. Use of high fines and jail is generally not viewed as effective in the “what works” research
- In Denver, started the NAV program. People work with a navigator to get them through the complexities of the DMV system. Get license back, get the SR 22 insurance . Etc.
- This is an issue for all: judges, DAs and defense lawyers but mostly OSPD since our clients are poverty level. We believe we should work together to address this issue.

Thank you for attention.

Maureen Cain

Policy Liaison

Office of State Public Defender