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MEMORANDUM

Pursuant to section 24-72-202(6.5)(b), research memoranda and other final products of Legislative Council Staff research that are not related to proposed or pending legislation are considered public records and are subject to public inspection.

August 13, 2002

TO: Interim Committee on Criminal Sentencing

FROM: Carl Jarrett, Principal Analyst, 303-866-4791

SUBJECT: Recent Drug Treatment Laws Adopted in Other States

Pursuant to committee discussion on the Governor's veto of the Interim Committee's bill from last year on drug treatment, SB 02-039, following is information on drug treatment legislation recently adopted in other states.

Some states have made options other than prison available for certain drug offenders, particularly non-violent drug offenders, including expanded drug courts and post-incarceration community drug treatment programs. Other states have eliminated mandatory minimum sentences for certain drug offenders. Table I lists these states and contains a synopsis of the provisions of recently enacted legislation. Staff can provide further detail on any of the provisions of the laws from the states listed below.

Table I
Synopsis of Provisions of Legislation in Other States Regarding Drug Treatment and Mandatory Minimum Sentences for Drug Offenders

State	Provisions of Legislation
Connecticut	Courts are allowed, upon a showing of good cause by the defendant, to deviate from three-year mandatory minimum sentences for the sale or possession of drugs within 1,500 feet of schools, day care, and public housing when the defendant did not possess a firearm, inflict physical injury, or attempt or threaten to inflict physical injury. The court, at the time of sentencing, must state the reasons for imposing the particular sentence and the specific reason for departing from the mandatory minimum sentence.
Florida	On the front end of the system, drug courts are expanded to each judicial district in the state. On the back end of the system, a mandatory, post-prison release program for substance abusers is created. Also, community-based treatment services for probationers and probation violators are expanded. In addition, the Department of Corrections is required to enter into contracts with community service providers, including faith-based groups, to operate substance abuse transition housing programs.

State	Provisions of Legislation
Indiana	Persons convicted of delivering drugs are eligible for treatment in lieu of prosecution. Courts are allowed to place offenders convicted of felony drug offenses in community corrections programs. The mandatory 20-year sentence for drug dealers now applies only when dealers possess a firearm or sell drugs to minors.
New Mexico	For the purpose of providing drug treatment and community reintegration and minimizing repeat offenses and prison time served, the DOC, in conjunction with the Department of Health, is required to implement, at an existing prison facility, a residential evaluation and treatment center. The center is to serve as an alternative correctional sanction and sentencing alternative for selected nonviolent prisoners and parole violators. The DOC must incorporate substance abuse treatment with community reintegration programs as an alternative to prison for selected offenders on pretrial, probation, parole, or technical parole violation status. The DOC and the DOH must also provide residential treatment programs for selected females released and paroled from prison who are diagnosed with a mental illness and substance abuse problems in order to prepare them for reintegration into community living. Both agencies must further provide for a residential treatment program for selected females released or paroled from prison and their minor children under the age of 11 in order to provide a continuum of addiction services and family functional development or reintegration into community living. Female inmates are eligible for early release from prison to the custody of a re-entry drug court program supervised by a district court. Women who are convicted of non-violent, drug-related offenses and who are within 18 months of release or parole eligibility are eligible for the re-entry program.
North Dakota	First-time and some second-time drug offenders convicted of the manufacture, delivering, possession with the intent to manufacture or deliver a controlled substance, or possession within 1,000 feet of a school are now eligible for diversion instead of a mandatory minimum prison term.
Oregon	Probation services are now available for those convicted of possession of a controlled substance or a property offense motivated by drug dependence. Local Public safety councils are required to develop drug treatment plans that integrate drug treatment services into the criminal justice system. A drug Prevention and Education Fund is created to be funded by 40% of civil forfeitures to assist counties in providing drug treatment services.
Texas	Counties of 550,000 or more are required to establish drug court programs to integrate alcohol and drug treatment services in judicial case processing. Such counties are also required to apply for federal funds to establish the courts. Offenders convicted of use, possession, or sale of a controlled substance not involving weapons, use of force, serious injury, or death are eligible for drug court. Drug court programs may collect a program fee of up to \$1,000 from program participants in addition to the costs of urinalysis testing and counseling fees.
Washington	Non-violent drug offenders are given the choice of completing a drug court treatment program or conviction and a prison term. Those who fail the drug court treatment program automatically receive jail or prison time. Also, sentences for certain manufacture, delivery, or drug possession offenses are reduced. The resulting savings in prison bed costs are directed to a newly created criminal justice treatment account. The DOC is required to calculate such savings using methodology developed by the DOC, the sentencing guidelines commission, the office of financial management, and the caseload forecast council.

State	Provisions of Legislation
Wyoming	Certain drug offenders are now required to be assessed, and allowed treatment in lieu of incarceration. The court may incarcerate these offenders if the court concludes that no adequate treatment exists or that the interests of justice require incarceration. Programs are set up to prevent substance abuse, offer early intervention, and make treatment easily available and cost effective. Treatment is funded with \$25 million in tobacco settlement money.

Source: National Conference of State Legislatures