Colorado
Legislative
Council
Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 FAX: 866-3855 TDD: 866-3472

MEMORANDUM

August 27, 2002

TO: Members of the Criminal Justice Interim Committee

FROM: Jonathan Lurie, (303) 866-2677

SUBJECT: Trends in Filing, Conviction, and Sentencing of Selected Mandatory Sentence Provisions

This memorandum provides an analysis of felony charges, convictions, and sentencing trends for a selected group of mandatory sentencing provisions in the Colorado Revised Statues. This analysis includes the following C.R.S. citations:

- Section 16-11-309 C.R.S. - Crimes of violence (Any crime against an at-risk adult or at-risk juvenile; murder; first or second degree assault; kidnapping, sexual assault; aggravated robbery; first degree arson; first degree burglary; escape; or criminal extortion. "Crimes of violence" also includes 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.);
- Section 16-13-101 C.R.S. - Habitual criminal statutes;
- Section 18-3-405(3) C.R.S., 18-3-405.3(4) C.R.S., and 18-3-412(2) C.R.S., Sexual assault on a child in which the offense was a part of a pattern of sexual abuse;
- Section 18-3-412.5(4) C.R.S. - Failure of a sex offender's duty to register, subsequent offense;
- Section 18-8-208 C.R.S. - Escapes;
- Section 18-8-208.1 C.R.S. - Attempted escapes;
- Section 18-8-212 C.R.S. - Violation of bail bond conditions;
- Section 18-18-405(3) C.R.S. - Unlawful distribution, manufacturing, dispensing, sale, or possession of large quantities of a controlled substance; and
- Section 18-18-407 C.R.S. - Special drug offender statutes.

Table 1 illustrates the trends of felony charges of these mandatory sentencing provisions over the past five years. Charges for controlled substance related crimes increased the most during this period. Criminal filings for "Section 18-18-407 C.R.S. - special drug offenders" increased at an average annual rate of 46.8 percent per year and charges for "Section 18-18-405(3) C.R.S. - large quantities of a controlled substance " increased at an average annual rate of 20.5 percent per year from FY 1997-98 to FY 2001-02. Meanwhile, total criminal filings *decreased* at an average rate of 0.8 percent over the same five-year period.

Table 1: Felony Charges of Selected Mandatory Sentencing Provisions, FY 1997-98 to FY 2001-02

C.R.S. Mandatory Sentencing Provision	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02 *	Average Annual Growth Rate
16-11-309 crimes of violence	937	1,005	1,004	921	1,112	4.4%
16-13-101 habitual criminal	187	226	336	285	209	2.8%
18-3-405,405.3,412 sexual assault on a child	607	700	693	796	787	6.7%
18-3-412.5 sex offenders duty to register	0	4	10	24	158	NA
18-8-208 escapes	484	427	502	556	686	9.1%
18-8-208.1 attempt to escape	273	408	355	285	205	-6.9%
18-8-212 violation of bail bond	144	215	226	235	274	17.4%
18-18-405(3) Controlled substance large quantities	72	115	125	117	152	20.5%
18-18-407(1) Special drug offender	88	114	103	194	409	46.8%
All criminal Filings	40,612	37,488	35,608	36,855	39,395	-0.8%
Annual Growth		-7.7%	-5.0%	3.5%	6.9%	

** FY 2001-02 figures are estimated based on six months of data.*
Source: Colorado District Attorneys Council Blackstone Database.

Table 2 illustrates the trend of felony convictions of these mandatory sentencing provisions over the past five years. Convictions for repeated failure to register as a sex offender increased the most of those crimes analyzed. Criminal convictions for "Section 18-3-412 C.R.S. - sex offenders duty to register" increased significantly as a result of the passage of House Bill 99-1260 and House Bill 00-1317 that strengthened the requirements associated with local registration for sex offenders. From FY 1997-98 to FY 2001-02, convictions of habitual criminals increased an average of 22.4 percent per year, convictions of special drug offenders increased an average of 20.3 percent per year, and convictions of bail bond violations increased an average of 14.8 percent per year. Meanwhile, total criminal convictions increased at an average rate of 1.4 percent over the same five-year period.

Table 2: Felony Convictions of Selected Mandatory Sentencing Provisions, FY 1997-98 to FY 2001-02

C.R.S. Mandatory Sentencing Provision	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02 *	Average Annual Growth Rate
16-11-309 crimes of violence	454	559	619	726	692	11.1%
conviction rate	76.3%	73.8%	69.8%	76.7%	73.1%	
16-13-101 habitual criminal	109	136	183	167	245	22.4%
conviction rate	89.3%	81.0%	78.9%	75.2%	83.2%	
18-3-405,405.3,412 sexual assault on a child	251	282	335	323	386	11.4%
conviction rate	58.9%	52.0%	54.6%	52.8%	54.6%	
18-3-412.5 sex offenders duty to register	1	1	4	3	32	137.8%
conviction rate	100.0%	50.0%	57.1%	23.1%	50.0%	
18-8-208 escapes	354	244	260	232	258	-7.6%
conviction rate	83.7%	73.3%	67.7%	62.4%	68.7%	
18-8-208.1 attempt to escape	249	339	374	308	314	6.0%
conviction rate	98.4%	99.1%	99.5%	97.8%	97.1%	
18-8-212 violation of bail bond	23	16	29	30	40	14.8%
conviction rate	19.0%	18.8%	21.6%	19.5%	21.9%	
18-18-405(3) Controlled substance large quantities	39	53	48	56	63	12.7%
conviction rate	97.5%	81.5%	66.7%	75.7%	67.3%	
18-18-407(1) Special drug offender	11	22	20	20	23	20.3%
conviction rate	30.6%	41.5%	25.6%	35.1%	27.3%	
All criminal convictions	27,420	27,772	26,420	26,265	28,944	1.4%
Annual Growth		1.3%	-4.9%	-0.6%	10.2%	

** FY 2001-02 figures are estimated based on six months of data.*
Source: Colorado District Attorneys Council Blackstone Database.

Table 3 illustrates the trend of prison sentences of these mandatory sentencing provisions over the past four years. While the estimated number of prison sentences increased an average of 6.5 percent per year from FY 1997-98 to FY 2000-01, prison sentences for special drug offenders increased over 34.4 percent per year, and prison terms for crimes of violence increased 23.8 percent per year. The frequency with which convicts were sentenced to prison were high for escape crimes and habitual criminals. Habitual criminals were likely to be sentenced to prison over 80 percent of the time while convicted escapees and attempted escapees were likely to be sentenced to prison around 90 to 95 percent of the time. In contrast, around 25 percent of all criminals convicted were likely to be sent to prison. It is important to note, however, that the pool of felony convictions is more represented by lower felony classes than the mandatory sentencing provision groups analyzed.

Table 3: Prison Sentences for Selected Mandatory Sentencing Provisions, FY 1997-98 to FY 2000-01

C.R.S. Mandatory Sentencing Provision	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	Average Annual Growth Rate
16-11-309 crimes of violence	137	245	255	260	23.8%
Percent of all convictions	36.1%	44.6%	44.7%	37.3%	
16-13-101 habitual criminal	96	106	127	130	10.6%
Percent of all convictions	87.3%	87.6%	78.9%	76.5%	
18-3-405,405.3,412 sexual assault on a child	119	114	160	118	-0.3%
Percent of all convictions	54.3%	43.5%	50.0%	39.5%	
18-3-412.5 sex offenders duty to register	0	0	2	1	NA
Percent of all convictions			50.0%		
18-6-801(7) habitual domestic violence offender	0	0	0	0	NA
Percent of all convictions					
18-8-208 escapes	329	227	226	193	-16.3%
Percent of all convictions	95.4%	93.4%	87.6%	85.8%	
18-8-208.1 attempt to escape	236	325	356	271	4.7%
Percent of all convictions	97.5%	97.3%	97.0%	95.1%	
18-8-212 violation of bail bond	11	9	18	16	13.3%
Percent of all convictions	57.9%	64.3%	60.0%	59.3%	
18-18-405(3) Controlled substance large quantities	21	42	32	34	17.4%
Percent of all convictions	72.4%	77.8%	71.1%	69.4%	
18-18-407(1) Special drug offender	7	22	14	17	34.4%
Percent of all convictions			82.4%	77.3%	
Total Estimated Prison Sentences	3,425	4,222	4,380	4,132	6.5%
Percent of all convictions	28.2%	28.1%	26.9%	22.7%	
Annual Growth		23.3%	3.7%	-5.7%	

Source: Colorado District Attorneys Council Blackstone Database.

Table 4 provides a history of prison admissions for the crimes analyzed from FY 1995-96 to FY 2000-01. Prison admissions for habitual offenders increased at an average annual growth rate of 18.3 percent per year over the most recent five years of data. Meanwhile, over that same five-year period, total prison admissions increased an average of 1.8 percent per year.

Table 4: Prison Admission History for Selected Crimes, FY 1995-96 to FY 2000-01

	Habitual Offender	Lifetime Supervision Sex Offender	Sex Assault on a Child	Special Drug Offender	Escapes and Attempted Escape	Violation of Bail Bond	Total Prison Admissions from Court Commitments
FY 1995-96	25		174		187	9	4,104
FY 1996-97	36		231	5	173	9	4,217
FY 1997-98	42		234	9	189	16	4,396
FY 1998-99	49		229	19	157	11	4,377
FY 1999-00	35	37	277	12	210	14	4,043
FY 2000-01	58	89	266	20	210	7	4,489
Average Annual Growth Rate	18.3%	NA	8.9%	NA	2.3%	-4.9%	1.8%

Notes: There are no crime codes available for 18-3-412.5 C.R.S. or 18-18-405(3) C.R.S. There is no crime code to identify a pattern of sexual assault on a child. All admissions for 18-3-405,405.3,412 sexual assault on a child are presented.
Source: Department of Corrections Annual Statistical Reports.