

Appendix A — Flow Chart of Colorado's Adult Correctional System

This appendix provides a flow chart of the adult correctional system in Colorado. The chart illustrates the numerous steps required by the court to sentence adult offenders and depicts the discretion the law gives courts in sentencing criminal offenders. The chart is followed by a table which contains an explanation of each step of the flowchart.

Explanation for Adult Correctional System Flow Chart			
Chart Level	Item	Colorado Statutory Citation	Description
1	Society		
2	Offense Committed		
3	Report to Law Enforcement		
4	Arrest	16-3-101 16-3-102	A peace officer may arrest a person when: there is a warrant commanding that the person be arrested; any crime has been or is being committed by such person in the peace officer's presence; or the peace officer has probable cause to believe that the offense was committed by the person to be arrested.
5	Pre-trial Alternatives/ Pre-trial Investigation	16-4-105 (3)	Pre-trial service programs in the district attorney's office establish procedures for screening arrested persons. The programs provide information to the judge to assist in making an appropriate bond decision. The programs may also include different methods and levels of community-based supervision as a condition of pretrial release. It is at this stage that the judge decides what, if any, pretrial release is appropriate.
5a	Jail	17-26-101	Lawfully committed persons and prisoners are housed in a county jail for detention, safekeeping, and confinement. Each county in the state is required to maintain a jail except counties with populations of less than 2,000.
5b	Bond/Bail	16-4-101 through 16-4-112	All persons are eligible for bond except: (a) for capital offenses when proof is evident or presumption is great; (b) when, after a hearing held within 96 hours of arrest, the court finds reasonable proof that a crime was committed and finds that the public would be placed in significant peril if the accused were released on bail and such person is accused in any of the following cases: (I) a crime of violence while on probation or parole resulting from the conviction of a crime of violence; (II) a crime of violence while on bail pending the disposition of a previous crime of violence charge for which probable cause has been found; (III) a crime of violence after two previous felony convictions, or one previous felony conviction if the conviction was for a crime of violence in Colorado or any other state when the crime would have been a felony if committed in Colorado which, if committed in this state, would be a felony; or (IV) a crime of possession of a weapon by a previous offender; or (c) when a person has been convicted of a crime of violence at the trial court level and such person is appealing the conviction or awaiting sentencing for the conviction and the court finds that the public would be placed in significant peril if the convicted person were released on bail.

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Chart Level	Item	Colorado Statutory Citation	Description
5c	Release on Recognizance	16-4-101 16-4-104 16-4-105	A defendant may be released from custody upon execution of a personal recognizance bond which is secured only by the personal obligation of the defendant. A defendant is not eligible for a personal recognizance bond if he or she: (a) is on another bond of any kind for a felony or class 1 misdemeanor; (b) has a class 1 misdemeanor conviction within two years or a felony conviction within 5 years of the bond hearing; (c) is a juvenile being charged as an adult by direct file or transfer and has failed to appear on bond in a felony or class 1 misdemeanor within the past 5 years; (d) is presently on release under a surety bond for a felony or class 1 misdemeanor, unless the surety is notified and given the opportunity to exonerate him or herself from bond liability; or (e) failed to appear while free on bond in conjunction with a class 1 misdemeanor or a felony and is subsequently arrested. The defendant becomes ineligible for a personal recognizance bond in the case for which the defendant failed to appear.
6	Advisement (or First Appearance)	16-7-207	At the first appearance of the defendant in court, the court informs the defendant of the following: (a) no statement need be made, and any statement made can and may be used against the defendant; (b) the right to counsel; (c) the right to the appointment of counsel or to consult with the public defender; (d) any plea must be voluntary and not the result of influence or coercion; (e) the right to bail; (f) the right to a jury trial; and (g) the nature of the charges.
7a	Grand Jury Indictment	13-72-101, et seq. 13-73-101, et seq. 16-5-101, et seq. 16-5-201, et seq.	The court or a district attorney may convene a grand jury to investigate a crime and to return an indictment. Colorado statutes allow county grand juries, judicial district grand juries, and statewide grand juries to be impaneled.
7b	District Attorney Information Filing	16-5-208	In all cases where an accused is in county court concerning the commission of a felony and is bound over and committed to jail or is granted bail, the district attorney is responsible for filing an information in the district court alleging the accused committed the criminal offense described in the information. If the district attorney decides not to file charges, he is to file in district court a written statement containing the reasons for not doing so.

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Chart Level	Item	Colorado Statutory Citation	Description
8	Preliminary Hearing	16-5-301	Every person charged with a class 1, 2, or 3 felony and every person accused of a class 4, 5, or 6 felony which requires mandatory sentencing or is a crime of violence or is a sexual offense has the right to demand and receive a preliminary hearing in order to determine whether probable cause exists to believe that the defendant committed the charged offense.
9	Dispositional Hearing	16-5-301	Persons charged with a class 4, 5, or 6 felony, except those requiring mandatory sentencing or which are crimes of violence or sexual offenses, must participate in a dispositional hearing for the purposes of case evaluation and potential resolution.
10	Arraignment	16-7-201 through 16-7-207	At the time of arraignment the defendant may enter one of the following pleas: guilty; not guilty; nolo contendere (no contest) with the consent of the court; or not guilty by reason of insanity, in which event a not guilty plea may also be entered.
11a	Not Guilty Plea >>> Proceed to Trial	16-7-205	See chart level 12a.
11b	Guilty Plea >>> Proceed to Sentencing	16-7-205	See chart level 12c.
11c	Deferred Sentencing or Deferred Judgment	18-1.3-102	After a defendant has pled guilty and the court and DA have agreed, the court may defer sentencing or judgment by continuing the case for up to four years from the date the felony plea was entered (two years from the date the misdemeanor plea was entered). The period may be extended for up to 180 days if failure to pay restitution is the sole condition of supervision which has not been fulfilled and the defendant has shown a future ability to pay. During the period of deferred sentencing, the court may place the defendant under the supervision of the probation department. Upon full compliance with conditions of probation and stipulations agreed to by the defendant and the DA, the plea of guilty previously entered into is withdrawn and the charges dismissed with prejudice. Upon a violation of a condition of probation or a breach of the stipulation, the court must enter judgment and impose a sentence on the guilty plea.

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Chart Level	Item	Colorado Statutory Citation	Description
12a	Trial	16-10-101 through 16-10-401, 18-1-405 and 18-1-406	<p>Trial: The right of a person who is accused of an offense other than a non-criminal traffic infraction or a municipal or county ordinance violation to have a trial by jury is inviolate and a matter of substantive due process of law. If the defendant is not brought to trial within six months from the date of the not guilty plea, he or she is to be discharged from custody if he/she has not been admitted to bail, and the pending charges are to be dismissed. The defendant may not be indicted again, informed against, or committed for the same offense. If a continuance has been granted for the defense, the period is extended for an additional six months. If the prosecuting attorney is granted a continuance, the trial can be delayed up to six months only if certain circumstances are met which are noted in Section 18-1-405 (6), C.R.S.</p> <p>Every person accused of a felony has the right to be tried by a jury of 12 whose verdict must be unanimous. A person may waive the right to a jury trial except in the case of class 1 felonies.</p>
12a	Plea Bargain	16-7-301 through 16-7-304	<p>Plea Bargain: The DA may engage in plea discussions to reach a plea agreement in those instances where it appears that the effective administration of criminal justice will be served. The DA should only engage in plea discussions in the presence of the defense attorney. When a plea has been reached, the prosecutor informs the court of the terms of the plea agreement and the recommended penalty. The court then advises the defendant that the court exercises independent judgment in deciding whether to grant charge and sentence concessions made in the plea agreement and that the court may sentence the defendant in a manner that is different than that discussed in the plea discussions. The court may then concur or not concur with the proposed plea agreement.</p>
12b	Pre-sentence Investigation	16-11-102	<p>Following each felony (other than a class 1) conviction, or upon court order in a misdemeanor conviction, the probation officer conducts an investigation and makes a written report to the court before sentencing. Pre-sentence reports include a substance abuse assessment or evaluation. The report also includes, but is not limited to, the following information: family background, educational history, employment record, past criminal record including any past juvenile delinquency record involving unlawful sexual behavior, an evaluation of alternative dispositions available, a victim impact statement, and such other information that the court may require. Copies of the report, including any recommendations, are given to the prosecutor and the defense attorney no less than 72 hours prior to the sentencing hearing.</p>

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Chart Level	Item	Colorado Statutory Citation	Description
12c	Sentencing	18-1.3-104	The trial court has the following alternatives in imposing a sentence: grant probation; imprisonment for a definite period of time; death; the payment of a fine or to a term of imprisonment or to both a term of imprisonment and the payment of a fine; any other court order authorized by law; or payment of costs. Non-violent offenders may be sentenced to probation, community corrections, home detention, or a specialized restitution and community service program.
13a	Fines, Restitution, Community Service	18-1.3-701 18-1.3-601 18-1.3-302, et seq.	Offenders may be sentenced to community service as an alternative to prison if the defendant is eligible for placement in the program. Offenders are not eligible for community service if they have been convicted of a crime of violence (Section 18-1.3-406, C.R.S.) or any felony offense against a child.
13b	County Jail	18-1.3-501	Offenders convicted of a misdemeanor offense are punishable by fine or imprisonment. A term of imprisonment for a misdemeanor is not served in a state correctional facility unless the sentence is served concurrently with a term of conviction for a felony. The court may also sentence an offender to a term of jail and probation (Section 18-1.3-202, C.R.S.), to a term of jail and work release (Section 18-1.3-207, C.R.S.), or to a term of jail and a fine (Section 18-1.3-505, C.R.S.).
13c	Probation	18-1.3-201 et seq.	Probation: Offenders are eligible for probation with the following exceptions: (1) those convicted of a class 1 felony or class 2 petty offense; (2) those who have been convicted of two prior felonies in Colorado or any other state; and (3) those convicted of a class 1, 2 or 3 felony within the last ten years in Colorado or any other state. Eligibility restrictions may be waived by the sentencing court upon the recommendation of the DA. In considering whether to grant probation, the court may determine that prison is a more appropriate placement for the following reasons: (1) there is an undue risk that the defendant will commit another crime while on probation; (2) the defendant is in need of correctional treatment; (3) a sentence to probation will unduly depreciate the seriousness of the defendant's crime or undermine respect for law; (4) past criminal record indicates that probation would fail to accomplish its intended purpose; or (5) the crime and the surrounding factors do not justify probation.

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Chart Level	Item	Colorado Statutory Citation	Description
13d	Intensive Supervision Probation (ISP)	18-1.3-208 (4)	The court may sentence an offender who is otherwise eligible for probation and who would otherwise be sentenced to the DOC to ISP if the court determines that the offender is not a threat to society. Offenders in ISPs receive the highest level of supervision provided to probationers including highly restricted activities, daily contact between the offender and the probation officer, monitored curfew, home visitation, employment visitation and monitoring, and drug and alcohol screening.
13e	Home Detention	18-1.3-105	Home detention is an alternative correctional sentence in which a defendant convicted of a felony (except a class 1 felony) is allowed to serve the sentence or term of probation at home or another approved residence. Home detention programs require the offender to stay at the residence at all times except for approved employment, court-ordered activities, and medical appointments. A sentencing judge may sentence an offender to a home detention program after considering several factors such as the safety of the victims and witnesses and the public at large, the seriousness of the offense, the offender's prior criminal record, and the ability of the offender to pay for the costs of home detention and provide restitution to the victims.
13f	Community Corrections	18-1.3-301	Any district court judge may refer an offender convicted of a felony to a community corrections program unless the offender is required to be sentenced as a violent offender. The court may also refer an offender to community corrections as a condition of probation. Any offender sentenced by the court to community corrections must be approved by the local community corrections board for acceptance into the program.
13g	Prison	18-1.3-401 (1) (a) (V) (A)	Persons convicted of felony offenses are subject to a penalty of imprisonment for a length of time that is specified in statute corresponding to the felony class for which the offender was convicted.
13h	Youthful Offender System	18-1.3-407	Certain juveniles tried and sentenced as adults may be sentenced to the YOS as an alternative to a sentence to prison. In order to sentence a juvenile to the YOS, the court must first impose a sentence to the DOC which is then suspended on the condition that the youthful offender complete a sentence to the YOS, including a period of community supervision. A sentence to the YOS is a determinate sentence of not less than two years nor more than six years. The DOC may also place the youth under community supervision for a period of not less than six months and up to 12 months any time after the date on which the youth has 12 months remaining to complete the determinate sentence.
14a	Unsuccessful Completion		Back to sentencing.

Explanation for Adult Correctional System Flow Chart			
Chart Level	Item	Colorado Statutory Citation	Description
14b	Successful Completion		Back into society.
14c	Parole Board	17-2-201 et seq.	The Parole Board consists of seven members appointed by the Governor and confirmed by the Senate. The board considers all applications for parole and conducts parole revocation hearings. If the board refuses parole, the board must reconsider parole every year thereafter until parole is granted or the offender is discharged. For class 1 or class 2 crimes of violence the board is only required to review parole once every five years. For class 3 sexual assault, habitual offenders, and sex offenders subject to lifetime supervision, the board only has to review parole once every three years.
14d	Local Community Corrections Board	17-27-103 (7)	Local community corrections boards are the governing bodies of community corrections programs. Locally-elected officials appoint community corrections boards. These boards' authority includes the following: to approve or disapprove the establishment and operation of a community corrections program; to enter into contracts to provide services and supervision for offenders; to accept or reject any offender referred for placement in a community corrections facility; to establish and enforce standards for the operation of a community corrections program; and to establish conditions for the conduct of offenders placed in community corrections programs.
15a	Parole/Intensive Supervision Programs	17-22.5-403 17-27.5-101	Offenders sentenced for class 2, 3, 4, 5, or 6 felonies are eligible for parole after serving 50 percent of their sentence, less earned time. Offenders convicted of certain violent class 2 or class 3 felony offenses for the first time (second degree murder, first degree assault, first degree kidnapping, first degree arson, first degree burglary, or aggravated robbery), or who have been convicted of one of these crimes that is a class 4 or 5 felony after previously being convicted of a crime of violence (defined in Section 18-1.3-406, C.R.S.) are ineligible for parole until they have served 75 percent of the sentence less earned time. Offenders convicted of one of these crimes that is a class 2 or class 3 felony after having been previously convicted of a crime of violence, or a class 4 or 5 felony after having been twice previously convicted of a crime of violence, are ineligible for parole until they serve 75 percent of the sentence regardless of any earned time. DOC inmates who have no more than 180 days until their PED are eligible for placement in ISP. In addition, offenders in a community corrections facility who have met residential program requirements and who have no more than 180 days until their PED are eligible for ISP.

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Chart Level	Item	Colorado Statutory Citation	Description
15b	Community Corrections	18-1.3-301(2)	The DOC executive director may transfer any inmate who has displayed acceptable institutional behavior, other than one serving a sentence for a crime of violence, to a community corrections program subject to approval by the community corrections board. Non-violent inmates are referred to community corrections by the DOC 19 months prior to the offender's PED and moved to a community corrections facility 16 months prior to the PED. The DOC may refer violent offenders to a community corrections facility 9 months prior to the PED and may move the offender 180 days prior to the PED.
15c	Community Corrections as Condition of Parole	18-1.3-301(3)	The Parole Board may refer any parolee for placement in a community corrections program, subject to acceptance by the local community corrections board. Such placement may be made a condition of release on parole or as a modification to the conditions of parole after release or upon temporary revocation of parole.
15d	YOS Phase II & III Community Supervision	18-1.3-407(3.3) (c) (I) and (II)	After a youthful offender has completed the core programs, supplementary activities, and educational and prevocational programs in phase I of the YOS, the DOC is authorized to transfer the youthful offender to a Phase II 24-hour custody residential program. Phase III is to be administered for the period of community supervision remaining after completion of phase II. During phase III, the youthful offender is to be monitored as he reintegrates into society.
16a	Revocation	17-2-103	A parolee who violates the conditions of parole may have that privilege revoked. These conditions include any parolee who is found in possession of a deadly weapon or who is arrested and charged with a felony, a crime of violence, a misdemeanor assault involving a deadly weapon or resulting in bodily injury to the victim, or sexual assault in the third degree.
16b	Successful Discharge		The offender successfully completes the conditions of parole or community corrections and is free to reintegrate into society.
17	Return to Parole Board.		See chart level 14a.