

CRIMINAL JUSTICE

Controlled Substances

SB 12-020 (Enacted)
Immunity for Reporters of Overdoses

SB 12-037 (Enacted)
Electronic Prescription Controlled Substances

SB 12-039 (Postponed Indefinitely)
Minor Drug and Alcohol Use

SB 12-116 (Deemed Lost*)
Bath Salts as Controlled Substances

SB 12-163 (Deemed Lost*)
Reduce Penalty Certain Drug Possession Offenses

HB 12-1242 (Postponed Indefinitely)
Biometric System Monitor Prescription Drugs

HB 12-1310 (Enacted)
Criminal Proceedings Omnibus Changes

HB 12-1325 (Deemed Lost)
Methamphetamine Precursor Drug Log and Limits

Corrections

SB 12-161 (Enacted)
Reduce Correctional Facility Health Care Costs

HB 12-1213 (Enacted)
Escape from Community Corrections Program

HB 12-1223 (Enacted)
Inmates Eligibility for Earned Time

HB 12-1232 (Postponed Indefinitely)
Health Care Costs for Persons in Custody

HB 12-1336 (Enacted)
Prison Utilization Study

HB 12-1337 (Enacted)
Close Colorado State Penitentiary II

Driving Offenses

SB 12-050 (Postponed Indefinitely)
Prohibit Red Light Camera Vehicle Identification

SB 12-117 (Deemed Lost)
Penalties for Driving Under the Influence Offenses

HB 12-1084 (Enacted)
Penalty for Leaving the Scene of a Traffic Accident

HB 12-1094 (Enacted)
Parking in Front of Fire Hydrant Penalty

Firearms

SB 12-025 (Postponed Indefinitely)
Concealed Handgun Carry with No Permit

HB 12-1048 (Postponed Indefinitely)
End CBI Instacheck Duty for Firearm Transfers

HB 12-1064 (Postponed Indefinitely)
Firearm Possession During State of Emergency

HB 12-1092 (Postponed Indefinitely)
Concealed Handgun Carry Without Permit

Increased Penalties and New Crimes

SB 12-044 (Enacted)
Failure to Provide Valid Transit Pass or Coupon

SB 12-078 (Enacted)
Protections for At-risk Adults

SB 12-100 (Postponed Indefinitely)
Prohibit Discrimination Labor Union Participation

SB 12-125 (Postponed Indefinitely)
Crimes Against Unborn Children

SB 12-147 (Postponed Indefinitely)
Prohibit False Election Information Made to Deter Voting

HB 12-1087 (Postponed Indefinitely)
Online Animal Abusers Registry

HB 12-1125 (Enacted)
Modify Procedures Regarding Impounded Animal Costs

HB 12-1130 (Postponed Indefinitely)
First Degree Murder of Unborn Child

HB 12-1296 (Postponed Indefinitely)
Criminal Wage Theft

HB 12-1304 (Enacted)
Prevention of Organized Retail Theft

HB 12-1346 (Enacted)
Sex Offender Registration No Fixed Residence

CRIMINAL JUSTICE (Cont.)

Juvenile Justice		
<p>SB 12-028 (Deemed Lost*) <i>Aggravated Juvenile Offenders</i></p>	<p>SB 12-046 (Deemed Lost*) <i>Discipline in Public Schools</i></p>	<p>HB 12-1139 (Enacted) <i>Pretrial Detention of Children Tried as Adults</i></p>
<p>HB 12-1271 (Enacted) <i>Juvenile Direct File Limitations</i></p>	<p>HB 12-1310 (Enacted) <i>Criminal Proceedings Omnibus Changes</i></p>	<p>HB 12-1345 (Enacted) <i>Financing of Public Schools</i></p>
Law Enforcement Authority and Procedures		
<p>SB 12-072 (Enacted) <i>Colorado Mounted Rangers</i></p>	<p>SB 12-110 (Enacted) <i>Funding for Attorney General Insurance Fraud Investigators</i></p>	<p>HB 12-1026 (Enacted) <i>Municipal Prosecuting Attorney Peace Officers</i></p>
<p>HB 12-1062 (Postponed Indefinitely) <i>Employment Protections for Colorado Peace Officers</i></p>	<p>HB 12-1079 (Enacted) <i>Colorado Department of Public Safety Peace Officer Designations</i></p>	<p>HB 12-1163 (Enacted) <i>Conditional & Provisional Peace Officer Status</i></p>
<p>HB 12-1283 (Enacted) <i>Consolidate Homeland Security Functions Under Colorado Department of Public Safety</i></p>		
Offenses Related to Regulated Professions		
<p>HB 12-1060 (Postponed Indefinitely) <i>Sunrise Dietician Regulation</i></p>	<p>HB 12-1110 (Enacted) <i>Regulation of Appraisal Management Companies</i></p>	<p>HB 12-1137 (Postponed Indefinitely) <i>Department of Regulatory Agencies Registration Music Therapists</i></p>
<p>HB 12-1332 (Enacted) <i>Licensure of Anesthesiologist Assistants</i></p>		
Miscellaneous		
<p>SB 12-102 (Enacted) <i>Repeal Crime of Criminal Libel</i></p>	<p>HB 12-1088 (Postponed Indefinitely) <i>Deadly Force Against Intruder at Place of Business</i></p>	<p>HB 12-1101 (Postponed Indefinitely) <i>Use of Personal Information to Defraud</i></p>

*Four bills that were deemed lost at the end of the 2012 session were subsequently amended into other bills. Senate Bill 12-028, Senate Bill 12-116, and Senate Bill 12-163 were amended entirely into House Bill 12-1310; Senate Bill 12-046 was amended entirely into House Bill 12-1345.

The General Assembly considered a wide range of legislation related to criminal justice during the 2012 legislative session. Major topics addressed included controlled substances, firearms, increased penalties and new crimes, juvenile justice, and law enforcement authority and procedures.

Controlled Substances

The drugs and other substances that are considered controlled substances under the federal Controlled Substances Act (21 U.S.C. §801, *et seq.*) are divided into five schedules. A substance's position is based on whether it has a currently accepted medical use in treatment in the United States and its relative potential for abuse and dependence. Schedule I controlled substances have no accepted medical use and may not be prescribed under federal law.

Prescription and over-the-counter drugs. The General Assembly considered three bills concerning prescription and over-the-counter drugs, two of which involved monitoring the purchases of certain drugs such that may be used to manufacture methamphetamine. Such drugs are known as methamphetamine precursors. **Senate Bill 12-037** conforms Colorado statutes to the federal Drug Enforcement Administration regulations by allowing a pharmacy to dispense a prescribed Schedule II, III, IV, or V controlled substance from an electronically transmitted prescription. It also allows a practitioner to dispense these substances directly to the ultimate user without a written prescription.

Current law prohibits stores from selling and individuals from purchasing more than 3.6 grams of any methamphetamine precursor drug or combination of methamphetamine precursor drugs in a 24-hour period. **House Bill 12-1325**, which was deemed lost in the Senate, would have changed the relevant sale period from 24 hours to one calendar day. It also would have added a prohibition against the sale or purchase of more than 9 grams of methamphetamine precursor drugs within a 30-day period. Currently, store employees are required to check the photo identification of individuals buying nonprescription methamphetamine precursor drugs and to log each sale. Under the bill, stores would have been required to submit the information in the log to an electronic logging system prior to making a sale of methamphetamine precursor drugs. **House Bill 12-1242**, which was postponed indefinitely, would have required the Colorado Department of Regulatory Agencies to develop an electronic system to monitor and store in a secure database information pertaining to:

- the prescribing of prescription drugs;
- the dispensing or delivery of prescription drugs; and
- the dispensing or delivery of methamphetamine precursor drugs.

Schedule of controlled substances. The General Assembly considered one bill, **Senate Bill 12-116**, concerning the schedule of controlled substances in Colorado. However, when that bill was deemed lost in the House, its provisions were amended onto **House Bill 12-1310**, an omnibus bill concerning criminal proceedings. Only the provisions of House Bill 12-1310 that are identical to those in Senate Bill 12-116 are summarized here. Under current law, cathinone (also known as "bath salts") is listed as a Schedule I substance, along with drugs such as heroin, morphine, and mescaline. It is a felony to possess, distribute, manufacture, or sell any Schedule I drug, with the exception of marijuana. House Bill 12-1310 moves cathinones from the Schedule I list to the list of controlled substances. The bill also changes the penalties for the possession or distribution of a cathinone as follows:

- reduces the penalty for a person who possesses any amount of cathinone from a class 4 felony (for more than four grams) or a class 6 felony (for less than four grams), to a class 1 misdemeanor;
- establishes a new class 3 felony for a person who distributes, manufactures, dispenses, or sells, or who induces, attempts to induce, or otherwise conspires to do the same for a cathinone; and
- creates a new civil penalty of between \$10,000 and \$500,000 for deceptive trade practices by a person or entity that distributes, manufactures, sells, or purchases cathinones.

As is the case under current law, enhanced sentencing is permitted for distribution of cathinone products to a minor by an adult who is at least two years older than the minor.

Sentencing for crimes involving controlled substances. The legislature considered two bills concerning sentencing for crimes involving controlled substances. **Senate Bill 12-020** provides immunity, with certain exceptions, from arrest and criminal prosecution for a person who, in good faith, reports an emergency drug or alcohol overdose. The immunity provided by the bill extends to the individual reporting the overdose and to the individual suffering the overdose. The reporter must remain at the scene of the event until law enforcement or other emergency medical personnel arrive; he or she must also cooperate with such personnel and must identify him or herself to the personnel. The bill encourages the Colorado Commission on Criminal and Juvenile Justice (CCJJ) to create and make publicly available a document describing the immunity provided by the bill.

Senate Bill 12-163, which was deemed lost in the House, was amended onto **House Bill 12-1310**. Only the provisions of House Bill 12-1310 that are identical to those in Senate Bill 12-163 are summarized here. The bill requires the CCJJ to consider, using empirical analysis and evidence-based data and research, the development of a comprehensive drug sentencing scheme for all drug crimes. The CCJJ is required to report to the House and Senate Judiciary committees by December 15, 2012, detailing the commission's recommendations, or if there are no recommendations, the reasons and areas of disagreement behind the lack of recommendations.

Other. The legislature postponed indefinitely **Senate Bill 12-039**, which would have required minors under the age of 18 who were applying for a driver's instruction permit to submit an affidavit that they had not used illegal drugs or alcohol in the previous year. An applicant's parent or guardian would have been required to sign the affidavit, and the affidavit also would have been required to obtain a minor's driver's license.

Corrections

Correctional facilities. The General Assembly passed two bills concerning correctional facilities, both of which were recommended by the Joint Budget Committee. **House Bill 12-1336** directs the Governor's Office of State Planning and Budgeting to contract for a system-wide analysis of the Colorado Department of Corrections (DOC) by July 1, 2012, or as soon as possible thereafter. The purpose of the study is to determine the most appropriate and cost-effective uses of available private and state prison beds. **House Bill 12-1337** codifies the closure of the south campus of the Centennial correctional facility (known as Colorado State Penitentiary II or CSP II) within the DOC. As of February 1, 2013, the DOC may not house offenders in any of CSP II's housing units. However, CSP II may be maintained at minimal levels for the purposes of providing support and other services to the remainder of the complex.

Health care. The legislature considered two bills concerning health care costs in correctional facilities. Under current law, licensed health care facilities are permitted to return unused medication, medical devices, or medical supplies to a pharmacist in the facility or a prescription drug outlet. Returned items may be redispensed to another patient or donated to a practitioner with prescriptive authority or to a nonprofit entity that is authorized to possess the items. **Senate Bill 12-161** extends this authority to correctional facilities, including state-operated prisons, jails, adult detention centers, and private prisons.

Under current law, a person held in the custody of a county jail is responsible for the cost of medical care related to self-inflicted injuries or preexisting conditions. **House Bill 12-1232**, which was postponed indefinitely, would have provided that persons in the custody of municipal

jails were also responsible for the costs of such care. The bill also would have extended the responsibility of a person in custody to cover the cost of medical care to all situations where the person was in the custody or control of a county or municipal law enforcement agency.

Sentencing. Two bills enacted by the legislature concern sentencing and the length of time offenders spend in correctional facilities. Under current law, persons who are convicted of a certain number of felonies over a designated time period are judged as habitual criminals and face enhanced sentencing penalties. A person convicted of any class 1, 2, 3, 4, or 5 felony who has been convicted of two felonies with the previous ten years is considered a habitual criminal and must be sentenced for a term of three times the maximum of the presumptive sentencing range for the felony. In addition, a person convicted of any felony who has been previously convicted of three or more felonies within any time frame is also considered a habitual criminal and must be sentenced for a term of four times the maximum of the presumptive range for the felony. **House Bill 12-1213** exempts charges of felony escape or attempt to escape from a place other than a county jail or a correctional facility from criteria used to designate a person as a habitual criminal. Examples of places other than a county jail or a correctional facility include community corrections and the Division of Youth Corrections within the Colorado Department of Human Services (DHS). The bill applies to escape crimes that occur on or after the effective date of the bill.

Once an offender is sentenced to the custody of the DOC, most offenders are eligible to accrue earned time that shortens the length of their sentence by 10 to 12 days per month. Generally, an offender's sentence cannot be reduced by more than 30 percent and an offender cannot accrue earned time after being reincarcerated following revocation of parole for a violation. **House Bill 12-1223**, which was recommended by the Joint Budget Committee, expands eligibility for earned time accrual to include offenders who were convicted for felony offenses that occurred on or after July 1, 1993, and who were reincarcerated under a parole revocation.

Additionally, the bill creates a new category of earned time called "achievement earned time," which may be awarded to offenders who:

- successfully complete a milestone or phase of an educational, vocational, therapeutic, or re-entry program; or
- demonstrate exceptional conduct that promotes the safety of correctional staff, volunteers, contractors, or of other persons under the supervision of the DOC.

At the discretion of the executive director of the DOC, offenders may be awarded up to 60 days of achievement earned time per program milestone or phase, or per instance of exceptional conduct, except that no offender may be awarded more than a total of 120 days.

Driving Offenses

Driving under the influence (DUI). Current law specifies that a driver whose blood alcohol content (BAC) is 0.08 or greater while driving, or within two hours of driving, can be charged with DUI per se in addition to DUI. DUI is a misdemeanor that may be charged whenever a person drives after consuming alcohol or one or more drugs, or a combination of both alcohol and drugs, and as a result is substantially incapable of exercising clear judgment, sufficient physical control, or due care in the safe operation of the vehicle. DUI per se is a misdemeanor that may be charged whenever the results of a breath or blood test administered to a driver exceed the legal limits for

alcohol. There is no corresponding DUI per se charge for drivers accused of driving while under the influence of drugs. **Senate Bill 12-117**, which was deemed lost in the House, would have expanded the definition of DUI per se to apply to drivers whose blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood while driving or within two hours of driving. The bill also would have repealed the law specifying that it is a misdemeanor for a habitual user of any controlled substance to drive a motor vehicle or low-power scooter. During the first extraordinary session of 2012, the General Assembly considered **House Bill 12S-1005**, which was identical to Senate Bill 12-117. However, the bill was lost in the Senate.

Increased penalties. The legislature passed two bills that increased the penalties for certain driving offenses. **House Bill 12-1084** increases the penalty for the driver of a vehicle who leaves the scene of an accident resulting in a serious bodily injury from a class 5 felony to a class 4 felony. The penalty for a class 5 felony is 1 to 3 years in prison, a fine of \$1,000 to \$100,000, or both. The penalty for a class 4 felony is 2 to 6 years in prison, a fine of \$2,000 to \$500,000, or both. **House Bill 12-1094** increases the penalty for parking in front of a fire hydrant in unincorporated areas of a county. Under current law, the penalty for this infraction is between \$15 and \$100. House Bill 12-1094 increases the penalty to a range of \$150 to \$200.

Other. The legislature postponed indefinitely **Senate Bill 12-050**, which would have prohibited the use of automated vehicle identification systems, including photo radar and "red light cameras," for traffic law enforcement. Under the bill, an automated vehicle identification system would only be permitted for use on a toll road or highway to assess charges and issue citations for related violations.

Firearms

The General Assembly considered but ultimately postponed indefinitely four firearms-related bills. **Senate Bill 12-025** and **House Bill 12-1092** both would have specified that anyone who was at least 21 years old, was in legal possession of a handgun, and carried a concealed handgun had the same rights and was subject to the same limitations as a concealed handgun permit holder.

House Bill 12-1048 would have removed the requirement that the Colorado Bureau of Investigation in the Colorado Department of Public Safety (CDPS) perform background checks for the transfer of firearms. Instead, a gun show vendor would have been required to contact the Federal Bureau of Investigation (FBI) to complete a background check and to verify a prospective owner's identity by checking his or her photo identification. Sheriffs' offices would have been directed to contract the FBI directly for background checks for individuals seeking concealed carry permits.

House Bill 12-1064 would have prohibited the state or any of its political subdivisions from limiting the otherwise lawful use, display, possession, or transfer of ammunition or a firearm during an official state of emergency. During an emergency, lawfully possessed firearms and ammunition may not have been seized or confiscated, except as necessary to make an arrest, to gather evidence for a crime, or for purposes of self-defense. The bill specified that civil actions may have been brought in order to return a seized firearm or ammunition and against a person acting on behalf of the state or a political subdivision.

Increased Penalties and New Crimes

Crimes against an unborn child. The legislature considered two bills concerning crimes against an unborn child; both bills were postponed indefinitely. **Senate Bill 12-125** would have created a new article in the criminal code for offenses against pregnant women and their unborn children. The bill would have created new offenses for unlawful termination of pregnancy in the first, second, third, and fourth degrees; vehicular unlawful termination of pregnancy; and aggravated vehicular unlawful termination of pregnancy. Termination of pregnancy resulting from medical care consented to by the woman would have been exempt from prosecution. The bill also would have modified several provisions of current law by:

- increasing the penalty for criminal abortion in which the woman does not die from a class 4 felony to a class 2 felony;
- reducing the penalty for leaving the scene of an accident resulting in death from a class 3 felony to a class 4 felony; and
- adding a class 4 felony penalty for leaving the scene of an accident resulting in unlawful termination of pregnancy.

House Bill 12-1130 would have allowed for a second charge to be filed if a crime committed against a pregnant woman was the proximate cause of injury or death to her unborn child.

Employment-related crimes. The legislature postponed indefinitely two bills that would have created new employment-related crimes. **House Bill 12-1296** would have amended the criminal code to add the crime of wage theft. Under the bill, a person would commit the offense of wage theft when:

- the person, or an entity under the person's financial control, was under a duty to pay wages or compensation to an employee; and
- the person failed to pay those wages or compensation, or falsely denied that the amount of wages was owed to the employee.

The bill would have classified wage theft based on the amount of wages wrongly withheld, ranging from a class 2 misdemeanor to a class 3 felony. A new instance of wage theft would occur each month and with each employee that the employer failed to pay. The employer would have been presumed to have committed wage theft if the amount of the wages was available to the employer at the time of the offense. An employer would have had an affirmative defense if he or she believed in good faith that he or she would pay when engaging the employee but did not have the ability to pay at the time of the offense.

Senate Bill 12-100 would have prohibited an employer from requiring, as a condition of employment, membership in a labor organization or the payment of dues, fees, or other assessments to a labor organization, charity, or other third party. Violators would have been guilty of a misdemeanor and subject to up to a sentence of up to 90 days in a county jail, a fine of up to \$1,000, or both.

Mistreatment of at-risk adults. The General Assembly enacted **Senate Bill 12-078**, which clarifies definitions and modifies requirements concerning the mistreatment, self-neglect, and exploitation of at-risk adults. Among other things, the bill:

- expands the definition of an at-risk adult to include persons over the age of 70;

- for observed or suspected mistreatment or self-neglect, it requires a person in a specified profession or occupation (mandatory reporter) to make an immediate oral report within 24 hours;
- for observed or suspected fiscal exploitation, it urges a mandatory reporter to make an immediate oral report;
- removes the requirement that an abuse reporter follow an oral report within a written report within 48 hours;
- creates a class 3 misdemeanor for failure to report mistreatment or self-neglect of an at-risk adult; and
- increases the penalty for releasing confidential information about an adult protective services investigation from a class 2 petty offense with a maximum penalty of a \$300 fine to a class 3 misdemeanor.

In addition, the bill directs each county to require each protective services employee to undergo a fingerprint background check, and it creates the 17-member Elder Abuse Task Force, which is authorized to meet during the 2012 legislative interim. The purpose of the task force is to study, make recommendations, and report on various issues related to at-risk elderly adults.

False reporting. Under current law, a person who knowingly causes a false alarm of fire or other emergency to be transmitted to or within a fire department or ambulance service commits false reporting, which is a class 3 misdemeanor. Alarms transmitted to other government agencies that deal with emergencies involving danger to life or property are also included. **House Bill 12-1304** adds the following two additional elements to this offense of false reporting:

- knowingly causing a false emergency exit alarm to sound or to be transmitted to a government agency; and
- knowingly preventing a legitimate fire alarm, emergency exit alarm, or other emergency alarm from sounding or from being transmitted to a government agency.

The bill specifies that false reporting involving alarms is a class 2 misdemeanor if it is committed during the commission of another criminal offense.

Sex offender registration. Current law requires sex offenders to register with local law enforcement agencies in the jurisdictions where they reside. **House Bill 12-1346** establishes a system for the registration of sex offenders who lack a fixed residence. Offenders who lack a fixed residence are required to verify their registration information with the local law enforcement agency in their jurisdiction every one or three months, depending on the offender's registration status. The bill creates a new unclassified misdemeanor for individuals who fail to verify their location as a sex offender, punishable by up to one year in a county jail.

Theft of transit. Under current law, the crime of theft of transit for failure to pay the applicable fare or to present a valid pass or coupon is a class 2 petty offense punishable by a fine of up to \$100. The legislature passed **Senate Bill 12-044**, which changes the offense to a class B traffic infraction punishable by a fine of \$75. A person with an outstanding judgment for the new infraction is prohibited from obtaining or renewing a driver's license. The bill also creates a process for sealing existing criminal convictions for theft of transit by fare evasion.

Offenses related to elections. **Senate Bill 12-147**, which was postponed indefinitely, would have made it a class 5 felony to prevent or dissuade a person from voting by knowingly making false statements regarding election procedures or voter eligibility, if the communication was made within 90 days of an election. The bill also would have required the Attorney General:

- or district attorney to investigate credible reports of alleged violations, to undertake necessary corrective actions, and to prosecute as necessary;
- to promulgate related rules; and
- to submit a report after each general election to the House and Senate State, Veterans, and Military Affairs Committees that is a compilation of allegations of violations for the previous two years.

Animal abuse. The General Assembly enacted **House Bill 12-1125**, which modifies procedural requirements related to an animal that has been impounded due to alleged neglect, abuse, or other criminal acts involving animals. The modifications concern the payment of impoundment, care, and provision costs for the impounded animal. Current law allows an animal owner to file a bond with the court to cover the costs of impoundment for at least 30 days. He or she may request a hearing within ten days after impoundment to determine the reasonableness and fairness of the costs. The bill expands the purpose of the hearing to include a determination as to probable cause for the animal's impoundment and its release to the impounding agency for disposition if the owner elects not to pay the costs associated with impoundment. It specifies that the hearing must be held within ten days after the request is made by the owner. The bill also delays the payment of costs to the court until the date of the hearing and describes circumstances under which such costs must be refunded to the owner. Failure to pay impoundment costs will result in forfeiture of the right to contest the costs and any ownership rights to the animal. Finally, the bill clarifies that the criminal law procedures governing impoundments do not apply to matters brought solely in an administrative context.

The legislature considered but postponed indefinitely **House Bill 12-1087**, which would have created an online animal abusers registry within the CDPS. Under the bill, any person over the age of 18 who was a convicted of cruelty to animals, cruelty to a service animal, aggravated cruelty to animals, or animal fighting would have been required to register with the department. Failure to register within five business days of conviction would have been a class 2 misdemeanor.

Juvenile Justice

Juvenile justice and the educational system. The provisions of **Senate Bill 12-046**, which was recommended by the Task Force on School Discipline and was deemed lost, were added to **House Bill 12-1345**, concerning financing of public schools. Only the provisions of House Bill 12-1345 that are related to school discipline are summarized here. The bill allows public school officials discretion in assigning suspensions and expulsions that are mandatory under current law. It also establishes a mechanism for data provision from public schools, law enforcement, and district attorneys to state agencies. Among many provisions, the bill:

- requires local law enforcement agencies to report data on student arrests and other disciplinary actions to the Division of Criminal Justice (DCJ) within the CDPS;

- requires each district attorney to annually report to the DCJ information about offenses committed on school grounds;
- requires the provision of a training curriculum for school resource officers;
- modifies the safe school reporting requirements; and
- requires a post-enactment review by legislative service agencies after two years, which will consider the information provided to the DCJ by law enforcement agencies and district attorneys.

The role of the court in direct file cases. The General Assembly enacted two bills related to the role of the court in direct file cases. Under current law, juveniles who are at least 14 years old and who are charged with certain serious crimes may be prosecuted in adult court, a process known as direct filing. **House Bill 12-1271** raises the minimum age for direct filing from 14 to 16. Additionally, it limits 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. If, after a preliminary hearing, a district (adult) court does not find probable cause for a direct-file-eligible offense, or if such an offense is dismissed at a later date, the court is required to remand the case to the juvenile court. For cases that are direct filed, the juvenile is permitted to file a motion with the district court to transfer his or her case to juvenile court. The district court must hold the reverse-transfer hearing at the same time as the preliminary hearing, at which the district attorney is permitted to respond. The bill provides a list of factors that the court must consider when deciding whether to transfer a case to juvenile court. Finally, convictions for misdemeanor offenses and on charges that are not direct-file-eligible must be remanded to juvenile court. If a juvenile is sentenced by the juvenile court, his or her conviction will be converted to a juvenile delinquency adjudication, making it subject to the current process for expunging juvenile records.

House Bill 12-1139 changes the presumption in current law that juveniles who are charged as adults be detained in an adult jail facility pending a trial. Under the bill, such juvenile defendants are required to be held in a juvenile facility unless a judge determines, after a hearing, that the appropriate place of confinement is an adult jail. The bill lists a number of factors that the court must consider when making such a determination. The court's decision to place a juvenile defendant in an adult facility is subject to review by the court, upon the filing of a petition by the juvenile. In addition, the Division of Youth Corrections within the DHS may petition the court to move a juvenile who is being held in a juvenile detention facility to an adult facility in a case where the juvenile delinquent placement presents an imminent danger to others.

Other issues. When **Senate Bill 12-028**, concerning aggravated juvenile offenders adjudicated for murder, was deemed lost in the House, its provisions were amended onto **House Bill 12-1310**. Only the provisions of House Bill 12-1310 that are identical to those in Senate Bill 12-028 are summarized here. The bill establishes a ten-year mandatory period of parole for juvenile offenders who are adjudicated as delinquents and sentenced for murder in the first degree. It allows a court to sentence a juvenile adjudicated as a delinquent for murder in the first degree or murder in the second degree either consecutively or concurrently for any crime of violence or aggravated juvenile offender petition arising from the same incident.

Under current law, when an aggravated juvenile offender in the custody of the DHS reaches the age of 20 years and 6 months, the court is required to hold a hearing to determine the continuing jurisdiction of the juvenile. House Bill 12-1310 requires a mental health evaluation of the juvenile by a state-employed appropriate mental health professional at the Colorado Mental Health Institute

at Pueblo. The court is required to consider the following factors, at a minimum, when determining whether to transfer custody of a juvenile to the DOC:

- the mental health evaluation;
- the length of the remaining sentence;
- the nature of the crimes committed;
- prior criminal history;
- the maturity of the juvenile;
- behavior in custody;
- progress and participation in classes, programs, and educational improvement;
- the impact of the crimes on the victims;
- the likelihood of rehabilitation;
- the placement where the juvenile is most likely to succeed in reintegrating in the community; and
- the interest of the community in assuring that the punishment fits the crime.

Transfer of custody may include placement in a correctional facility, the Youthful Offender System, a community corrections facility, or the adult parole system.

Law Enforcement Authority and Procedures

Homeland security. On October 18, 2011, Governor Hickenlooper signed Executive Order D 2011-020. As a result of the executive order, all staff, federal funding, and resources within the Governor's Office of Homeland Security was consolidated and transferred to the new Division of Homeland Security and Emergency Management within CDPS. **House Bill 12-1283** codifies the consolidation. Among other things, the division is charged with:

- building partnerships with first responders, agencies, and citizens in the public and private sectors;
- coordinating activities with other state agencies and the all-hazards emergency management regions created by the Governor's executive order;
- developing and updating a state strategy for homeland security;
- facilitating, coordinating, and conducting capabilities assessments as necessary;
- coordinating protection activities among owners and operators of critical infrastructure and other tribal, state, local, regional, and federal agencies; and
- reporting on its progress or before February 1, 2013, and each year through September 1, 2017.

The bill also created a new 21-member Homeland Security and All-Hazards Senior Advisory Committee with representation from a variety of state and local agencies. Finally, the bill transfers and reestablishes the Office of Fire Safety as the Division of Fire Safety within CDPS. The bill transfers wildfire-related powers and duties of the state forest service of Colorado State University to the new division.

Peace officer status. The General Assembly considered four bills concerning peace officer status, three of which were enacted. The designation of peace officer status provides the authority to enforce all Colorado laws and to be certified by the Peace Officer Standards and Training (P.O.S.T.) Board. **House Bill 12-1079** permits the executive director of the CDPS to appoint a

deputy executive director for the department. It also designates the deputy executive director and the director of the Division of Criminal Justice as peace officers. **House Bill 12-1026** confers peace officer status for certain municipal attorneys and allows them to enforce laws and become certified by the P.O.S.T. Board. **House Bill 12-1163** eliminates the authority of the P.O.S.T. Board to grant conditional peace officer status. The bill also allows a person to be granted provisional peace officer status if he or she has been authorized to act as a peace officer in another state or federal jurisdiction within the last three years, in addition to the current requirement that he or she has served in good standing in the other jurisdiction for one year.

House Bill 12-1062, which was postponed indefinitely, would have established minimum employment protections for peace officers in Colorado, separate from the current state personnel system. The bill addressed the following issues:

- entry of an adverse comment or material into a personnel file;
- a peace officer's right to engage in political activity or to participate in employee organizations;
- discipline of peace officers;
- the basic rights of an accused peace officer;
- rights of appeal in a disciplinary action;
- the right to file suit arising from the performance of duties as a peace officer; and
- a prohibition against retaliation by an employing agency against a peace officer for the exercise of his or her rights.

Other issues. **Senate Bill 12-110** establishes a two-tier fee schedule for insurance companies, which will increase funding to allow for the expansion of insurance fraud investigations and prosecutions in the Colorado Department of Law. **Senate Bill 12-072** states that the Colorado Mounted Rangers may enter into a memorandum of understanding (MOU) with a state agency, county sheriff, local government, or an emergency planning committee to provide assistance as required. Current law specifies that services can only be provided by a volunteer organization in the event of a disaster. The bill extends governmental immunity to the rangers and to any other volunteer organizations lending assistance under an MOU.

Offenses Related to Regulated Professions

The General Assembly considered four bills to regulate previously unregulated professions. Generally, when a profession is regulated, it is a crime to practice that profession without authorization. **House Bill 12-1110**, which regulates appraisal management companies, creates a new misdemeanor offense for persons, partnerships, or companies that act as an appraisal management company without a valid license. **House Bill 12-1332**, which regulates anesthesiologist assistants, creates a new class 2 misdemeanor for unauthorized practice as an anesthesiologist assistant. The bill also creates the new class 6 felonies of giving false or forged evidence in connection with an application to practice as an anesthesiologist assistant, and of practicing as an anesthesiologist assistant under a false or assumed name.

House Bill 12-1060, which was postponed indefinitely, would have regulated dietitians. Under the bill, a person who practiced dietetics without complying with the regulations would have been guilty of a misdemeanor. **House Bill 12-1137**, which was also postponed indefinitely, would have regulated music therapists. It would have been a class 2 misdemeanor for the first offense of

practicing or offering or attempting to practice music therapy without an active registration, and a class 1 misdemeanor for the second or subsequent offense.

Miscellaneous

Impersonation and identity theft. On October 25, 2010, the Colorado Supreme Court issued an opinion in the case of *Montes-Rodriguez v. People*, in which the court determined that an individual must know that he or she is using another person's personal identifying information, financial identifying information, or a financial device to be guilty of criminal impersonation. Prior to this ruling, district attorneys were prosecuting criminal impersonation and identify theft cases based on the assumption that the defendant did not need to be aware that he or she was using identifying information that belonged to a different person. **House Bill 12-1101**, which was postponed indefinitely, would have aligned state law with district attorney practices prior to October 25, 2010.

Repeal of crimes or penalties. The legislature enacted **Senate Bill 12-102**, which repeals the crime of criminal libel. Under current law, criminal libel is defined as knowingly publishing or disseminating any statement or object tending to blacken the memory of one who is dead, or impeaching the honesty, integrity, virtue, or reputation or exposing the natural defects of one who is alive, thereby exposing such person to public hatred, contempt, or ridicule. Criminal libel is a class 6 felony.

Use of deadly physical force. Current law permits the occupant of a dwelling to use deadly physical force against another person who has unlawfully entered the dwelling if the occupant reasonably believes that the intruder is committing, has committed, or intends to commit a crime other than the unlawful entry. **House Bill 12-1088**, which was postponed indefinitely, would have added a place of business to the locations that may be defended with deadly physical force and an owner, manager, or employee of a business to the individuals who may defend a place using deadly physical force.