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2010 SENTENCING REFORM

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During the 2010 session, the Colorado General Assembly passed several laws aimed at reducing the time individuals spend in correctional facilities for certain crimes. Together, these measures are estimated to save the state about \$2.7 million General Fund in FY 2010-11 and almost \$10 million General Fund in FY 2011-12. When passing these bills, the General Assembly allocated much of the savings to other bills that required funding to implement. Therefore, much of the savings from these sentencing reform bills has already been designated to pay for other legislative initiatives.

In 2009, the General Assembly directed the Colorado Commission on Criminal and Juvenile Justice to make recommendations concerning sentencing reform for the General Assembly to consider during the 2010 session. The bills passed were a result of these recommendations. An overview of the changes made to sentencing laws is provided in this issue brief.

Research indicates that more people are being sent to prison each year which increases the overall costs of incarceration. As of 2008, the Pew Center on the States estimated that one in every 100 adults in the United States is incarcerated. In an effort to reduce the burden of these costs on state budgets, many states have been looking at sentencing reform. Colorado is no exception. Colorado ranks fourth in the nation for state spending on corrections as a percentage of the General Fund. The average annual cost to incarcerate an offender is \$32,335 and it costs about \$125,000 to construct a prison bed for each additional offender.

According to the most recent Legislative Council Staff prison population projection, the prison population is expected to decrease by about 8 percent,

from 22,860 inmates in June 2010 to 21,058 inmates in June 2013, in part because of the sentencing reform bills passed by the legislature. The legislative changes described in this issue brief are estimated reduce the number of offenders sent to state prisons by about 380 people in FY 2010-11 and 540 in FY 2011-12. A detailed overview of the reduction in prison admissions and the associated savings can be found in the Table 1 on the following page.

Drug law revisions. House Bill 10-1352 made several changes to Colorado's drug laws in an effort to reduce the time that drug offenders, particularly for marijuana offenses and possession of smaller amounts of other types of drugs, spend in prison. The bill also increased some penalties, such as for selling drugs to minors. Overall, it is estimated that this bill, by having fewer individuals sent to prison and through shorter sentences, will reduce the prison population by almost 600 people annually by FY 2014-15. Individuals convicted of misdemeanors are sent to county jail while those who commit felonies are sent to prison. Primarily, the bill:

- reduced the penalty for use of a schedule I or II controlled substance from a felony to a class 2 misdemeanor;
- reduced the penalty for possession of a controlled substance to a class 6 felony for less than 4 grams and a class 4 felony for more than 4 grams;
- separated the crime of possession of a controlled substance from the crime of manufacturing, selling, or distributing the controlled substance;
- reduced all of the penalties for marijuana possession;
- increased the penalty for selling marijuana to an individual under the age of 15 by someone who is over 18.

Table 1
Cost Savings and Reduction in Offenders, 2010 Legislation

Bill	FY 2010-11 GF Savings	FY 2010-11 Offender Reduction	FY 2011-12 GF Savings	FY 2011-12 Offender Reduction
HB 10-1352: Drug Law Revisions	(\$1,468,196)	(108)	(\$6,156,118)	(217)
HB 10-1360: Parole Changes	(\$240,755)	(162)	(\$3,149,223)	(162)
HB 10-1374: Parole Changes	(\$114,127)	(24)	(\$70,262)	(26)
HB 10-1338: Probation Eligibility	(\$876,319)	(90)	(\$3,596,728)	(138)
HB 10-1373: Escape Crimes	Savings not until FY 2013-14			
Total	(\$2,699,397)	(384)	(\$9,735,281)	(543)

Changes to parole. In recent years, up to a third of parolees have been returned to custody for technical violations. The offenders did not commit new crimes. During the 2010 legislative session, the General Assembly passed HB 10-1360 to reduce the time that technical violators spend in prison. This bill is estimated to save about \$250,000 in FY 2010-11 and over \$3 million per year beginning in FY 2011-12. The savings from this bill are realized by diverting certain parolees who commit technical violations from returning to a state prison and instead placing these individuals in a less expensive community return-to-custody facility. The bill also reduces the revocation period from 180 to 90 days for parolees who are not considered high risk.

The General Assembly also passed HB 10-1374 which makes more offenders eligible for early release by allowing them to deduct up to 12 days of earned time each month from their sentences. Previously, offenders with any code of penal discipline violations were not eligible for earned time. With HB 10-1374, offenders cannot have a class 1 violation within 24 months or a class 2 violation within 12 months in order to be eligible for the earned time. Offenders also must be program compliant. This change is estimated to save the Department of Corrections over \$500,000 annually in earlier releases.

Concurrent sentencing for escape crimes. Until the passage of HB 10-1373, state law mandated that when a felon committed an escape crime, the court was required to impose a sentence to be served *consecutively* with any other sentence. HB 10-1373 changed that requirement to give the court the discretion to impose a *consecutive or concurrent* sentence. This bill does not have short-term cost savings; however, over the long term it is expected to save the Department of Corrections several hundred thousand dollars each year beginning in FY 2013-14.

Reduction in restrictions on probation eligibility. HB 10-1338 loosened the restrictions on probation eligibility which is estimated to save the state about \$3.5 million beginning in FY 2011-12. Prior to the passage of the bill, if an individual had two or more prior felony convictions, he or she was not eligible for probation. With HB 10-1338, these individuals are now allowed to apply for probation; however, exceptions still apply such as individuals who have been convicted of murder and other violent crimes.