



## Corrections and Court Procedure

During the 2020 legislative session, the General Assembly introduced several bills concerning the Judicial Department, civil and criminal courts, and the Department of Corrections (DOC). Following is a recap of the major legislation considered in these subject areas.

### Courts and Procedure

Legislators continued efforts to streamline the process for competency to stand trial and created a new judicial district. They also reviewed pretrial release practices.

**Competency in court proceedings.** *Senate Bill 20-181* makes several changes to the process by which defendants are found to be incompetent to proceed. The bill specifies that when a defendant is found to be incompetent to proceed, or where civil commitment proceedings are initiated in a municipal case, the court shall dismiss the case. The bill also makes changes to competency reports and makes changes related to bond release for defendants who are found to be incompetent to proceed.

*Senate Bill 20-172* would have required a court to hold a bond setting hearing within 48 hours after a defendant's arrival at a detention facility. The bill would have also created the position of bond hearing officer to conduct bond hearings on weekends and holidays throughout the state.

Similar changes to pretrial procedure have been implemented through Executive orders signed by Governor Polis, in response to the COVID-19 pandemic. However, these changes are temporary.

**Judicial districts.** For the first time in more than six decades, Colorado lawmakers created a new judicial district. House Bill 20-1026 removes Douglas, Elbert, and Lincoln counties from the 18<sup>th</sup> Judicial District and creates a 23<sup>rd</sup> Judicial District comprised of those counties.

**Pretrial release reform.** The General Assembly considered, but did not pass, two bills concerning pretrial. *Senate Bill 20-161* would have made significant changes to bail, bond hearings, and pretrial services. As part of the bill, each judicial district would have been required to implement a pretrial release assessment process to assess defendants no later than 24 hours after admission to a detention facility, using the least restrictive bond conditions.

### Corrections

Incarceration, substance use treatment in correctional facilities, and reentry into the community continue to be a topic of interest to the General Assembly in 2020.

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## Corrections and Court Procedure (cont'd)

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**Prison population management.** *House Bill 20-1019* makes the following changes to how the state manages the prison population:

- Facility study. Requires the Department of Local Affairs (DOLA), in collaboration with a contracted research and consulting entity, to study future prison bed needs in the state. After completing the study and receiving public testimony, DOLA must submit a final report by December 31, 2020, and present the study to the Judiciary Committees;
- Re-open closed prisons. Opens Centennial South in Fremont County, otherwise known as CSP II, to house up to 650 close custody inmates;
- Escape. Creates a new crime of unauthorized absence or escape for a person on intensive supervision parole, in a community corrections facility, or participating in a work release program;
- Termination hearings. Requires a new sentencing hearing for inmates who are terminated from a community corrections program;
- Out-of-state inmates. Requires DOC to develop criteria on accepting out-of-state inmates into Colorado private prisons; and
- Earned time. Allows earned time to be awarded for complying with DOC performance standards.

**Substance use disorder treatment.** *House Bill 20-1017* instructs jails and correctional facilities to provide continuity of care and develop resources for inmates post-release to help them prepare for community reintegration. The bill also establishes safe stations, defined as local law enforcement offices or fire stations, where people can turn in any controlled substances without being subject to arrest or prosecution. The Office of Behavioral Health can partner with cities and counties to create, maintain, or expand criminal justice diversion programs to connect law enforcement officers with

behavioral health providers. This is meant to assist individuals in need of intervention and to help divert individuals from the criminal justice system.

### Civil Proceedings

During the 2020 legislative session, lawmakers reviewed ways to broaden the rights of sexual assault victims.

**State of limitations of civil sexual assault claims.** Under existing law, the statute of limitations to bring a civil claim based on sexual assault or a sexual offense against a child is six years, with certain exceptions when the victim is a person with a disability or has a special relationship with the perpetrator. *House Bill 20-1296*, which was postponed indefinitely, would have removed the statute of limitations for causes of action on or after January 1, 2021, or for causes of action accruing prior to January 1, 2021. The bill would have also removed several restrictions related to these claims and would have applied to any cause of action brought against a person or entity that is not the perpetrator of sexual misconduct.

The bill failed due to concerns that it did not apply retroactively to cases in which the statute of limitations expired.