## Criminal Justice

### Concealed Handgun Permits

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Status/Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-009</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>HB 13-1169</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>SB 13-195</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1170</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>HB 13-1226</td>
<td>Deemed Lost</td>
</tr>
</tbody>
</table>

### Firearms

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Status/Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-062</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>SB 13-1085</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>SB 13-1104</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>SB 13-1197</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-1228</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-140</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>HB 13-1187</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>HB 13-1229</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-196</td>
<td>Deemed Lost</td>
</tr>
<tr>
<td>HB 13-1224</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1306</td>
<td>Postponed Indefinitely</td>
</tr>
</tbody>
</table>

### Issues Related to Controlled Substances

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Status/Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-043</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-054</td>
<td>Postponed Indefinitely</td>
</tr>
<tr>
<td>SB 13-278</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-244</td>
<td>Enacted</td>
</tr>
</tbody>
</table>

### Juvenile Justice

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Status/Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-047</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1082</td>
<td>Enacted</td>
</tr>
<tr>
<td>HJR 13-1019</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-177</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1254</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1383</td>
<td>Enacted</td>
</tr>
<tr>
<td>HB 13-1279</td>
<td>Deemed Lost</td>
</tr>
</tbody>
</table>

### Mandatory Reporting Requirements

<table>
<thead>
<tr>
<th>Bill Number</th>
<th>Status/Text</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-012</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-111</td>
<td>Enacted</td>
</tr>
<tr>
<td>SB 13-220</td>
<td>Enacted</td>
</tr>
</tbody>
</table>

---
## New Offenses and Penalties

<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>HB 13-1014</td>
<td>(Enacted) Relocating Newspaper Theft</td>
</tr>
<tr>
<td>HB 13-1160</td>
<td>(Enacted) Consolidate Theft Statutes with New Penalties</td>
</tr>
<tr>
<td>HB 13-1231</td>
<td>(Deemed Lost) Prohibit Routine Dairy Cattle Tail Docking</td>
</tr>
<tr>
<td>HB 13-1149</td>
<td>(Postponed Indefinitely) Jessica's Law Mandatory Sentence</td>
</tr>
<tr>
<td>HB 13-1154</td>
<td>(Postponed Indefinitely) Crimes Against Pregnant Women Act</td>
</tr>
<tr>
<td>HB 13-1227</td>
<td>(Postponed Indefinitely) Income Protection Act</td>
</tr>
</tbody>
</table>

## Offenses Related to Pregnancy and Abortion

<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-056</td>
<td>(Postponed Indefinitely) Ban Sex-selection Abortions</td>
</tr>
<tr>
<td>HB 13-1131</td>
<td>(Postponed Indefinitely) Ban Sex-selection Abortions</td>
</tr>
<tr>
<td>HB 13-1032</td>
<td>(Postponed Indefinitely) Offenses Against Unborn Children</td>
</tr>
<tr>
<td>HB 13-1033</td>
<td>(Postponed Indefinitely) Abortion Ban</td>
</tr>
<tr>
<td>HB 13-1154</td>
<td>(Enacted) Crimes Against Pregnant Women Act</td>
</tr>
</tbody>
</table>

## Offenses Related to Regulated Professions

<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-039</td>
<td>(Enacted) Regulate Audiology Practice</td>
</tr>
<tr>
<td>SB 13-092</td>
<td>Deceptive Trade Practices Hearing Aid Dispensers</td>
</tr>
<tr>
<td>SB 13-238</td>
<td>(Enacted) Regulation Hearing Aid Providers Sellers</td>
</tr>
<tr>
<td>SB 13-259</td>
<td>(Postponed Indefinitely) Mandatory Regulation Private Investigators and Apprentices</td>
</tr>
<tr>
<td>SB 13-259</td>
<td>(Postponed Indefinitely) Mandatory Regulation Private Investigators and Apprentices</td>
</tr>
<tr>
<td>SB 13-298</td>
<td>(Enacted) Deceptive Trade Practices Hearing Aid Dispensers</td>
</tr>
<tr>
<td>HB 13-1111</td>
<td>(Enacted) Regulate Naturopathic Doctors</td>
</tr>
<tr>
<td>HB 13-1317</td>
<td>(Enacted) Implement Amendment 64 Majority Recommendation</td>
</tr>
<tr>
<td>HB 13-1318</td>
<td>(Enacted) Retail Marijuana Taxes</td>
</tr>
</tbody>
</table>

## Penalties for Offenses Related to Drugs and Driving Under the Influence

<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-014</td>
<td>(Enacted) Immunity for Administering Emergency Drugs to Overdose Victims</td>
</tr>
<tr>
<td>SB 13-208</td>
<td>(Enacted) Limitations on Drug Paraphernalia Laws</td>
</tr>
<tr>
<td>SB 13-250</td>
<td>(Enacted) Drug Sentencing Changes</td>
</tr>
<tr>
<td>SB 13-253</td>
<td>(Deemed Lost) Deferred Judgment Drug Case Violation</td>
</tr>
<tr>
<td>SB 13-253</td>
<td>(Deemed Lost) Deferred Judgment Drug Case Violation</td>
</tr>
<tr>
<td>SB 13-283</td>
<td>(Enacted) Implement Amendment 64 Consensus</td>
</tr>
<tr>
<td>HB 13-1114</td>
<td>(Postponded Indefinitely) Inferences for Marijuana and Driving Offenses</td>
</tr>
<tr>
<td>SB 13-1214</td>
<td>(Postponed Indefinitely) Felony for Repeat DUI Offenders</td>
</tr>
<tr>
<td>HB 13-1240</td>
<td>(Enacted) Penalties for Persistent Drunk Drivers</td>
</tr>
<tr>
<td>HB 13-1325</td>
<td>(Enacted) Inferences for Marijuana and Driving Offenses</td>
</tr>
</tbody>
</table>

## Miscellaneous

<table>
<thead>
<tr>
<th>Bill</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>SB 13-007</td>
<td>(Enacted) Eliminate Repeal of the Colorado Commission on Criminal and Juvenile Justice</td>
</tr>
<tr>
<td>SB 13-229</td>
<td>(Enacted) Criminal Omnibus</td>
</tr>
<tr>
<td>HB 13-1195</td>
<td>(Enacted) Human Trafficking</td>
</tr>
</tbody>
</table>
The General Assembly considered a wide range of legislation related to criminal justice during the 2013 legislative session. Major topics addressed included concealed handgun permits and other firearms laws, controlled substances, juvenile justice, and increased penalties and new crimes. Offenses that the legislature paid particular attention to include drug offenses and driving while under the influence, offenses related to pregnancy and abortion, and offenses related to the mandatory reporting of child abuse and neglect.

Concealed Handgun Permits

Under state law, individuals who wish to carry a concealed weapon must obtain a permit. Concealed weapons are prohibited in certain areas, such as public elementary, middle, and high schools and public buildings with permanent security personnel and electronic weapons screening stations. During the 2013 legislative session, the General Assembly considered six bills related to concealed handgun permits. Of these six bills, one passed. Four of the bills that did not pass either added or removed areas where concealed weapons are permitted. Two of the bills, one of which passed, addressed aspects about the application process and background checks conducted for concealed handgun permits.

**Amending prohibitions concerning concealed weapons.** [Senate Bill 13-009](#) and [House Bill 13-1170](#), both of which were postponed indefinitely, would have authorized a local school board of education, or the board of directors of a charter school, to adopt a written policy permitting an employee of the district or the school with a valid concealed handgun permit to carry a handgun on school property. Under [House Bill 13-1162](#), which was also postponed indefinitely, anyone who legally possessed a handgun under federal and state law would have had the same rights and have been subject to the same limitations as a concealed handgun permit holder. Finally, [House Bill 13-1226](#), which was deemed lost, would have prohibited concealed handgun permit holders from possessing a concealed weapon in any building or structure used by a public higher education institution for any purpose, including stadiums and arenas, or in any outdoor, institution-sponsored event on a campus at which the administration elected to prohibit the carrying of firearms.

**Application process and background checks for concealed handgun permits.** Under current law, to obtain a concealed handgun permit, a person must demonstrate competence with a handgun. Competence can be demonstrated by various methods, including the completion of a handgun training class. [Senate Bill 13-195](#) which was adopted by the legislature, clarifies that a handgun training class, for the purposes of satisfying the requirements of obtaining a concealed handgun permit, must not offer the entire course online or at any location other than where the certified instructor provides the course. [House Bill 13-1169](#), which was postponed indefinitely, would have allowed a person to satisfy federal and state background check requirements for firearms transfers by presenting a valid concealed handgun permit and identification card.

Firearms

In addition to the bills concerning concealed handgun permits discussed in the previous section, the General Assembly considered a number of other bills related to firearms. Generally, the bills addressed background checks for firearms purchases, liability issues related to the use of firearms, prohibitions on the possession of firearms, and other topics.
**Background checks for firearms purchases.** Current state and federal law require a licensed gun dealer to obtain a background check prior to transferring possession of a firearm. State law also requires a gun show vendor to obtain a background check and the approval of the Colorado Bureau of Investigation (CBI), Department of Public Safety prior to transferring possession of a firearm. [House Bill 13-1229](#) expands situations requiring background checks prior to transferring a firearm and changes the process for reporting and updating the records on which background checks are based. The bill also creates a judicial process for petitioning for relief from federal firearms prohibitions. Under the bill, on or after July 1, 2013, any person who is not a licensed gun dealer must obtain a background check and the approval of the CBI prior to transferring possession of a firearm. Individuals who are not licensed gun dealers must arrange for a licensed gun dealer to obtain a background check prior to transferring a firearm, and may be charged a fee of up to $10 for this service. [House Bill 13-1228](#) requires the CBI to charge a fee for performing instant criminal background checks related to the transfer of firearms. The fee may not exceed the direct and indirect costs associated with performing the checks. Currently, the costs of performing instant criminal background checks related to firearms transfers are paid from the General Fund.

**Liability issues related to the use of firearms.** The legislature debated three bills concerning liability issues related to the use of firearms. None of the bills passed. [Senate Bill 13-062](#), which was postponed indefinitely, would have made a private business, including a not-for-profit entity that conducts retail sales, liable for damages in a civil action if:

- the business prohibited firearms, whether concealed or open, in situations in which carrying firearms would otherwise be legal;
- the business did not employ at least one on-duty armed security officer for every 50 individuals present in the business; and
- a plaintiff incurred damages as a result of actions taken by another person, and the plaintiff could have defended against those actions with a firearm.

[Senate Bill 13-196](#), which was deemed lost, would have established civil liability for damages caused by assault weapons in certain situations. The bill defined assault weapons as any firearm other than a handgun, shotgun, or bolt-action rifle. In most circumstances, a person who used, owned, or possessed an assault weapon would have been strictly liable for all injuries and damages resulting from its discharge. The bill also would have repealed current statutes that limit the liability of manufacturers, importers, and dealers of firearms and ammunition in civil actions. In addition, a person who sold or transferred an assault weapon would have been liable for injuries and damages resulting from its discharge if the weapon was sold or transferred in knowing violation of any state or federal law and was the proximate cause of the injuries or damages.

Finally, 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; and
- he or she might use any physical force against the occupant.

[House Bill 13-1048](#), 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.
**Prohibitions on the possession of firearms.** The legislature considered four bills addressing prohibitions on the possession of firearms, two of which were postponed indefinitely. Senate Bill 13-197 imposes new requirements on the transfer of firearms and ammunition for persons subject to certain civil protection orders and mandatory protection orders and persons convicted of offenses with an underlying domestic violence component. Under current law, a court may already restrict possession of firearms. For example, persons convicted of a felony are subject to firearms restrictions. Persons subject to a mandatory (criminal) or civil protection order may also be restricted if the protection order is issued to prevent domestic abuse. Under federal law, a person may not possess or transfer a firearm if he or she is subject to a court order that restrains that person from harassing, stalking, or threatening an intimate partner or his or her child, or engaging in other conduct that places an intimate partner or child in reasonable fear of bodily injury. The bill stipulates the process for restricting firearms possession, and also requires the restricted person to, within certain time frames:

- sell or transfer possession of the firearm to a federally licensed firearms dealer;
- arrange for the storage of the firearm by a law enforcement agency; or
- sell or transfer the firearm to a private party who has been approved to possess or purchase a firearm by the CBI, upon the request of a licensed firearms dealer.

House Bill 13-1224 establishes limitations on large-capacity ammunition magazines, which are defined as magazines that can accept more than 15 rounds of ammunition or 8 shotgun shells. Beginning on July 1, 2013, the following actions are subject to criminal penalties:

- selling, transferring, or possessing a large-capacity magazine is a class 2 misdemeanor;
- second and future violations of selling, transferring, or possessing a large-capacity magazine are class 1 misdemeanors; and
- using a large-capacity magazine in the commission of a felony or crime of violence is a class 6 felony.

The prohibition against the transfer or possession of these magazines does not apply to law enforcement personnel, an employee engaged in official duties, members of the armed forces, the state or its political subdivisions, a firearms retailer for the purposes of sales outside of Colorado, an out-of-state transferee who is legally allowed to possess the magazine, or a person who possesses the magazine to transport it to an out-of-state entity on behalf of a party that may legally possess it. Individuals who have maintained continuous possession of the magazine prior to July 1, 2013, are allowed to retain ownership, and the prosecution has the burden of proof if a person asserts that he or she owns the magazine legally.

Under current law, the crime of possession of a weapon by a previous offender applies to all felony convictions. House Bill 13-1085, which was postponed indefinitely, would have limited the applicable felonies to those under the Victim Rights Act, as well as burglary, arson, or any felony involving the use of force or a deadly weapon. House Bill 13-1306, which was postponed indefinitely, would have required the Department of Human Services to convene a 30-member mental health and firearms task force to advise the General Assembly regarding issues surrounding the loss, maintenance, and restoration of the right to purchase and possess firearms by persons who, as a result of mental health issues, alcohol abuse, or substance abuse, are clearly dangerous to the health and safety of themselves or others.
Other. Under current criminal law, a deadly weapon is defined as any weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used or intended to be used is capable of producing death or serious bodily injury. Current law specifically includes firearms (whether loaded or unloaded), knives, and bludgeons in this definition of a deadly weapon. House Bill 13-1043 modifies the definition so that a firearm, whether loaded or unloaded, is defined as a deadly weapon regardless of the manner in which it is used or intended to be used.

The General Assembly postponed indefinitely two bills concerning the inapplicability of certain federal firearms laws within Colorado. Senate Bill 13-140 would have prohibited the state from enforcing any federal law or regulation that was effective on or after January 1, 2013, that restricts the possession of a firearm, firearm accessory, or ammunition that is manufactured within the United States and has remained exclusively in Colorado. It would have declared unenforceable, within Colorado, any federal laws or regulations that aimed to:

- ban or restrict ownership of a semi-automatic weapon or magazine;
- require registration of a weapon;
- restrict a Colorado resident from purchasing any weapon from a licensed dealer or private seller in another state; or
- restrict a resident from another state who visits Colorado from purchasing or possessing any weapon.

Under the bill, it would have been a class 1 misdemeanor for an employee or agent of the federal government to enforce, within Colorado, any federal laws and regulations prohibited by the bill if they related to a weapon that was produced and had remained in Colorado. House Bill 13-1187, which was also postponed indefinitely, was identical to Senate Bill 13-140 except that it created an exception for restrictions or requirements that already existed under Colorado law.

Issues Related to Controlled Substances

The legislature considered four bills related to controlled substances, although it should be noted that bills related to penalties for drug offenses and driving while under the influence are discussed in a separate section of this document. Two of the bills related to alcohol, while the other two addressed drug abuse.

Alcohol. Under current law, retail gaming taverns that post signs or personnel by each exit prohibiting the removal of alcoholic beverages are exempt from prosecution under the Colorado Liquor Code when an alcoholic beverage is removed from the premises. In this situation, the customer who removes the beverage is subject to a $250 fine. Senate Bill 13-043 extends this exemption from prosecution to all establishments that are licensed to sell alcoholic beverages for on-premises consumption provided that the establishments post a sign at each exit warning customers that it is illegal to leave the premises with an alcoholic beverage and that they are subject to a $250 fine. Senate Bill 13-054, which was postponed indefinitely, would have allowed a restaurant or other establishment licensed for on-premises consumption of alcohol to serve an alcoholic beverage to a person between the ages of 18 and 21 if the beverage was purchased by a parent or legal guardian and that parent or legal guardian was present while the underage person consumed the beverage.
Drug abuse. **Senate Bill 13-244** renames the Colorado Methamphetamine Task Force as the Colorado Substance Abuse Task Force and changes its emphasis to encompass all substance abuse. **Senate Bill 13-278** requires the task force to develop a definition of "drug-endangered child" for use in the context of child abuse and neglect.

**Juvenile Justice**

The legislature considered seven bills related to juvenile justice. Of those bills, four related to court proceedings involving juveniles, and the other three concerned procedures at the Division of Youth Corrections, Department of Human Services.

**Court proceedings involving juveniles.** **House Bill 13-1254** creates a restorative justice pilot project consisting of two new restorative justice programs in the 10th and 19th Judicial Districts (consisting of Pueblo and Weld Counties) and two existing programs in the 12th and 20th Judicial Districts (consisting of Saguache, Mineral, Rio Grande, Alamosa, Costilla, Conejos, and Boulder Counties). Restorative justice is generally defined as a set of values and principles focused on repairing the harm caused by offenders and on establishing a balance among the community, crime victims, and offenders. Under the bill, at each program site, if a juvenile who has not been previously charged with a crime or who has not participated in the pilot project could be charged with a misdemeanor, the district attorney is required to assess the juvenile's suitability for restorative justice programs. The district attorney is also permitted to refer juveniles charged with class 3, 4, 5, or 6 felonies if the juvenile has not been previously charged or has not participated in the pilot project. If the juvenile is deemed suitable and agrees to participate in the restorative justice program at his or her own expense, the district attorney will not file charges pending completion of the program. If the juvenile fails to complete the program, the charges may be reinstated by the district attorney.

**House Bill 13-1082** clarifies the procedure for petitioning the court for the expungement of juvenile delinquency records. It addresses, among other things, the proper timing for advisements of the right to petition for expungement and who may initiate expungement proceedings. Current law allows the court to expunge all juvenile records unless the juvenile has been convicted of or adjudicated for a new felony or misdemeanor since the juvenile was released from the court's jurisdiction or parole supervision for the original offense. The bill allows the court to expunge all records in a petitioner's case even if they have a new misdemeanor conviction, provided that the new offense does not involve domestic violence, unlawful sexual behavior, or possession of a weapon. Under current law, certain juvenile offenders are not eligible to petition for expungement at any time, particularly any person adjudicated as an aggravated or violent juvenile offender or any person who commits a crime of violence or an offense involving unlawful sexual behavior. Juveniles who were adjudicated for a crime of violence are made eligible to petition for expungement by the bill, and those who have failed to pay court-ordered restitution are made ineligible to petition for expungement.

**House Joint Resolution 13-1019** creates a 2013 interim committee to study the role of legal defense counsel in the juvenile justice system. The committee, which consists of ten legislative members and up to ten nonvoting members, is charged with studying the following issues:

- current law;
- a comparison of the role of defense counsel with the role of a guardian ad litem;
• the scope of rights to counsel, including indigency determinations for court-appointed
counsel;
• methods for improving professionalism in the practice of juvenile defense;
• the impact of inadequate access to counsel on minority, immigrant, disabled, and
mentally-ill children; and
• public access to juvenile delinquency records.

The committee will be staffed by Legislative Council Staff and the Office of Legislative Legal
Services. The committee must meet at least four times during the 2013 interim, and must report
its recommendations to the Committee on Legislative Council by November 15, 2013. The
committee may recommend up to eight bills, including legislation continuing the committee.

Finally, House Bill 13-1279, which was deemed lost, would have instructed courts in
juvenile cases to limit the premature waiver of counsel by juveniles in detention hearings and to
ensure that such waivers were made knowingly and voluntarily by juveniles. Juveniles also would
have been required to be free of physical restraints during hearings, unless the judge made specific
findings of fact that restraints were required to maintain order, prevent escape, or provide for the
safety of the courtroom.

Division of Youth Corrections. The Division of Youth Corrections (DYC), Department of
Human Services, oversees youths in the juvenile justice system between the ages of 10 and 21
who have been detained, committed, or paroled. In recent years, the number of youths held in
DYC facilities has decreased markedly. The lower detention population allows the bed cap to be
reduced. Senate Bill 13-177, which was recommended by the Joint Budget Committee, reduces
the bed cap for the DYC from 422 to 382.

Two additional bills added new requirements to the duties of the DYC. House Bill 13-1038
requires the DYC facility administrator for youths who will be 18 years of age or older on the date
of the next election to:
• facilitate voter registration and voting by youths;
• provide information on voting rights and how to register to vote;
• provide information on how youths may cast a mail ballot;
• distribute voter information materials; and
• ensure that any mail ballots cast by youths are delivered in a timely manner to the
designated election official.

Senate Bill 13-047 clarifies the role of the DYC in obtaining and remediating inaccuracies
in credit reports. Specifically, the bill:
• expands credit report requirements to youths in the custody of the DYC and state
mental hospitals;
• requires all youths in such placements who are age 16 or older to receive credit report
assistance, rather than only youths between the ages of 16 and 18; and
• clarifies that credit reports must be obtained annually.
Mandatory Reporting Requirements

The legislature adopted three bills expanding requirements for the mandatory reporting of abuse and neglect. Under current law, a person defined as a mandatory reporter who willfully fails to report abuse or neglect is guilty of a class 3 misdemeanor. Mandatory reporters are required to report child abuse or neglect if they have a reasonable cause to know or suspect that a child has been or is being subjected to abuse or neglect. **Senate Bill 13-012** expands the list of mandatory reporters and mandates that anyone in the position of director, coach, assistant coach or athletic personnel for a private sports organization report child abuse or neglect. **Senate Bill 13-220** adds emergency medical service providers to the list of mandatory reporters of child abuse and neglect. The bill applies to all certified emergency medical service providers, including volunteer providers.

Colorado’s Adult Protective Services (APS) system, enacted in 1991, is designed to protect vulnerable or at-risk adults who, because of age or mental or physical ability, are unable to obtain services or otherwise protect their own health, safety, and welfare. Under current law, an “at-risk adult” is any person over the age of 18 who meets this criteria. Colorado law encourages members of certain helping professions to make reports of known or suspected abuse and provides a telephone hotline for all citizens. Among its many provisions, **Senate Bill 13-111** creates a new class of protections for “at-risk elders,” who are defined as any person age 70 or older. The bill also makes a number of changes to the APS system, as follows:

- beginning July 1, 2014, members of helping professions listed in statute (mandatory reporters) are required to report known or suspected abuse of at-risk elders, and to make the report within 24 hours. Emergency medical service providers, physical therapists, clergy members, and chiropractors are added to the list of mandatory reporters;
- failure to make a mandatory report is a class 3 misdemeanor;
- law enforcement agencies are required to complete a criminal investigation when appropriate and to provide a summary of investigation reports to the relevant county department of social services and district attorney;
- the Peace Officer Standards and Training (P.O.S.T.) Board is required to develop and implement a training curriculum to assist peace officers in recognizing and responding to incidents of known or suspected abuse and exploitation of at-risk elders; and
- the Department of Human Services is directed to implement a program to generate awareness among the public and mandatory reporters about the mistreatment, self-neglect, and exploitation of at-risk adults, including at-risk elders.

New Offenses and Penalties

The General Assembly considered several bills related to new offenses and penalties. Major topics addressed included theft offenses, sentencing requirements, and offenses related to pregnancy and abortion. It should be noted that bills addressing offenses related to pregnancy and abortion and bills related to penalties for drug offenses and driving while under the influence are addressed in separate sections.

**Sentencing requirements.** The legislature postponed indefinitely two bills that would have changed sentencing requirements for specific crimes. **House Bill 13-1148** would have amended the sentencing of persons convicted of certain violent crimes by:
• repealing the extraordinary risk sentencing enhancer. The extraordinary risk sentencing enhancer increases the presumptive sentencing range for certain felonies that are defined as presenting an extraordinary risk of harm to society, such as child abuse and stalking;
• adding certain child abuse crimes and stalking crimes to the category of "crimes of violence," for which enhanced sentencing is required;
• reducing the mandatory sentence for certain crimes from the midpoint in the presumptive sentencing range to the minimum of the presumptive sentencing range; and
• increasing maximum sentences for class 3 through class 6 felony crimes of violence.

House Bill 13-1149, which was also postponed indefinitely, would have increased the sentence for a person who commits sexual assault against a child who is 14 years old or younger and 7 or more years younger than the offender at the time of the offense. The bill would have required that the court impose a minimum indeterminate sentence of 25 years of incarceration. Under the current Colorado Sex Offender Lifetime Supervision Act, offenders who are convicted of sex offenses involving children are to be sentenced to the Department of Corrections for an indeterminate term of at least the minimum of the presumptive range for the offense committed and a maximum of the offender's natural life. Further sentencing enhancements are available for offenders convicted of crimes of violence or offenders determined to be habitual sex offenders.

The legislature considered three bills concerning theft offenses, one of which was postponed indefinitely. House Bill 13-1160 repeals the existing crimes of theft of rental property, theft by receiving, fuel piracy, and newspaper theft. It amends the crime of theft to include theft of rental property and theft by receiving. The bill adjusts all of the penalties for the crime of theft based on the value of the goods or property stolen. The result of this adjustment is to make some current felonies into misdemeanors and some current misdemeanors into class 1 petty offenses. House Bill 13-1014 relocates the crime of newspaper theft (which was repealed in House Bill 13-1160) from the section "Theft" to the section "Offenses Involving Communication" in the Criminal Code, and renames the crime "interference with lawful distribution of newspapers." The crime remains a misdemeanor punishable by up to $1,000 for 100 or fewer newspapers stolen, $2,500 for between 100 and 500 newspapers stolen, and $5,000 for over 500 newspapers stolen.

House Bill 13-1227, which was postponed indefinitely, would have added the crime of wage theft to the Criminal Code. Under the bill, a person would have committed one offense of wage theft for each calendar month for which and each employee for whom:

• the person, or an entity under the person's financial control, is under a duty to pay wages or compensation; and
• the person fails to pay those wages or compensation, or falsely denies the amount of wages owed.

Under the bill, a employer would have been presumed to have committed wage theft if the amount of wages was available to the employer at the time of the offense. An employer would not have been convicted if he or she believed in good faith that he or she would pay when the employee was hired but did not have the ability to do so at the time of the offense. Wage theft would have been classified based on the amount of wages wrongly withheld, ranging from a class 2 misdemeanor to a class 3 felony.
Under current law, adultery and promotion of sexual immorality are criminal offenses. Promotion of sexual immorality occurs when a person advertises or makes a facility available for sexual intercourse to persons who are not husband and wife, or for the purposes of deviate sexual intercourse. There is no penalty for the crime of adultery, but the crime of promoting sexual immorality is a class 2 misdemeanor. **House Bill 13-1166** repeals the crimes of adultery and promoting sexual immorality and a requirement that P.O.S.T. Board certification be denied to a person convicted of promoting sexual immorality.

**House Bill 13-1231**, which was deemed lost, would have prohibited the practice of docking the tails of dairy cattle. It allowed for tail docking if the procedure is performed for a therapeutic purpose by a veterinarian using anesthetic. Under the bill, tail docking would have been a class 2 petty offense, subject to a fine not to exceed $500.

### Offenses Related to Pregnancy and Abortion

The legislature considered five bills concerning offenses related to pregnancy and abortion, all but one of which was postponed indefinitely. Three bills created new prohibitions on abortion, while two bills addressed offenses against pregnant women.

**Abortion prohibitions.** **House Bill 13-1033**, which was postponed indefinitely, would have made knowingly terminating a pregnancy, by either procedural or pharmacological means, a class 3 felony. Specifically, the bill prohibited anyone from administering, prescribing, procuring, or selling a pregnant woman any medicine, drug, or other substance, or employing any instrument or procedure, with the intent of terminating the pregnancy. The bill exempted from criminal penalty cases where a licensed physician:

- performed a medical procedure designed to prevent the death of a pregnant woman, if the physician made reasonable medical efforts to preserve both the life of the woman and the unborn child; and
- provided medical treatment to the pregnant woman that resulted in the accidental or unintentional injury to or death of the unborn child.

The bill specified that the pregnant woman upon whom an abortion is performed would not be subject to criminal penalty. The bill allowed for the sale, use, prescription, or administration of contraceptives if administered prior to the time when a pregnancy could be determined through conventional medical testing.

The legislature postponed indefinitely two bills that would have criminalized sex-selection abortion and related actions. Both **Senate Bill 13-056** and **House Bill 13-1131** would have made sex-selection abortion and related actions a class 2 felony. Such actions were defined to include coercion of a sex-selection abortion, solicitation or acceptance of funds for a sex-selection abortion, or transporting a woman into Colorado to obtain a sex-selection abortion. The bills made exceptions for saving the life or preserving the health of the unborn child, spontaneous abortion, and the removal of an ectopic pregnancy.

**Offenses against pregnant women.** The General Assembly considered two bills concerning offenses against pregnant women, one of which was adopted and one of which was postponed indefinitely. Under current law, several serious offenses against a pregnant woman trigger enhanced sentencing if the defendant knew, or reasonably should have known, that the
victim was pregnant. For example, for class 1 felonies, crimes against a pregnant woman are an aggravating factor in determining whether to sentence an offender to life imprisonment or the death penalty. In addition, an offender is required to be sentenced to at least the midpoint and up to twice the presumptive range for certain offenses if the victim is a pregnant woman. These offenses include:

- murder in the second degree;
- manslaughter;
- criminally negligent homicide;
- vehicular homicide;
- assault in the first degree;
- assault in the second degree; and
- vehicular assault.

Finally, assault in the third degree requires a sentence of at least six months' imprisonment and prohibits the sentence from being suspended in whole or in part.

**House Bill 13-1154** creates a new article in the Criminal Code for offenses against pregnant women. It creates new offenses for: unlawful termination of pregnancy in the first, second, third, and fourth degrees; vehicular unlawful termination of pregnancy; aggravated vehicular unlawful termination of pregnancy; and careless driving resulting in unlawful termination of pregnancy. Termination of pregnancy resulting from medical care consented to by the woman is exempted from prosecution. The bill also modifies several provisions of current law by:

- repealing criminal abortion statutes;
- increasing the penalty for unlawful termination of pregnancy in the first degree from a class 4 felony to either a class 3 or 2 felony (depending on the circumstances); and
- clarifying that the court may impose consecutive sentences for offenses against pregnant women.

**House Bill 13-1032**, which was postponed indefinitely, would have allowed for a second charge to be filed if a crime committed against a pregnant woman was the proximate cause of injury to or the death of her unborn child.

### Offenses Related to Regulated Professions

The General Assembly considered seven bills creating offenses related to regulated professions; all but one of the bills was adopted.

**Audiology and hearing aid providers.** An audiologist is a medical practitioner who treats individuals with hearing loss, balance issues, and related disorders. Audiology practice has been regulated by Colorado law since 1996. Under current law, regulation and licensing of audiologists will end on July 1, 2013. **[Senate Bill 13-039]** reauthorizes the Department of Regulatory Agencies (DORA) to license audiologists, and implements recommendations from the DORA 2011 sunset review of the audiology licensure program. The bill requires that audiologists be licensed by the Division of Professions and Occupations in the DORA. Only individuals properly licensed may use the title "audiologist" or otherwise represent themselves as such. In addition, the bill defines the practice of audiology and the scope of audiologists' work, specifies educational background and examination requirements, and defines deceptive trade practices for audiologists. A person who
practices, offers, or attempts to practice audiology services without an active audiologist license commits a class 2 misdemeanor for the first offense, and a class 6 felony for the second or any subsequent offense.

Hearing aid providers are persons who engage in the practice of dispensing, fitting, or dealing in hearing aids. The profession has been regulated by Colorado law since 1995. Under current law, the regulation and licensing of hearing aid providers will end on July 1, 2013. Senate Bill 13-238 reauthorizes the DORA to license hearing aid providers. Among other things, the bill defines the scope of practice of hearing aid providers and specifies educational background and examination requirements. A person who practices, offers, or attempts to practice as a hearing aid provider or who engages in the practice of dispensing, fitting, or dealing in hearing aids without an active hearing aid provider license commits a class 2 misdemeanor for the first offense, and a class 6 felony for the second or any subsequent offense.

Finally, Senate Bill 13-228 creates a new cause of action under the Colorado Consumer Protection act for deceptive trade practices related to the provision of hearing aids. Deceptive trade practices occur when a hearing aid dispenser, among other infractions:

- fails to provide a detailed receipt of the hearing aid transaction, including prescribed disclosures;
- provides a hearing aid to a child under the age of 18 without first receiving documentation that the child has been examined by a physician and an audiologist within six months prior to fitting;
- fails to recommend that a prospective user consult a licensed physician if certain medical conditions exist;
- fails to provide a 30-day recission period and properly notify customers of return and refund policies; or
- falsely gives the impression that the hearing aid service is provided by a trained medical professional or has been recommended by the state when that is not the case.

A deceptive trade practice related to dispensing hearing aids is a class 1 misdemeanor for the first offense, and a class 6 felony for the second or any subsequent offense.

Marijuana businesses. Amendment 64, which was passed by the voters in November 2012, allows for an adult 21 years or older to consume or possess up to one ounce of marijuana and requires that a regulatory structure be established. Beginning January 1, 2014, the cultivation, processing, and retail sale of marijuana are allowed in Colorado. House Bill 13-1317 implements major provisions of Amendment 64 by creating the Colorado Retail Marijuana Code. Among other provisions, the bill identifies 22 unlawful acts, including: consuming marijuana in a licensed retail marijuana business, buying or selling marijuana outside of the regulated system, selling to a person under 21 years of age, and distributing marijuana through a mobile distribution center. A person who commits any of these acts commits a class 2 misdemeanor. House Bill 13-1318 submits a ballot question concerning an excise tax and a special sales tax to be levied on retail marijuana beginning January 1, 2014. Under the bill, it is a class 5 felony to fail to pay the two new taxes.

Other. House Bill 13-1111 creates a registration program for naturopathic doctors in the DORA. Beginning January 1, 2014, only individuals properly registered by the DORA may use the title "naturopathic doctor" or otherwise represent themselves as such. In addition, the bill defines naturopathic doctors and the scope of their practice, specifies educational background and
examination requirements, and mandates certain patient disclosure and record-keeping practices. A person who practices, offers, or attempts to practice as a naturopathic doctor without an active registration commits a class 2 misdemeanor.

**Senate Bill 13-259**, which was postponed indefinitely, would have created a mandatory registration program for private investigators. Under current law, private investigators make seek a voluntary license from the state, but are not required to do so. Under the bill, conducting private investigations without a registration would have been a class 2 misdemeanor for the first offense and a class 1 misdemeanor for the second or any subsequent offenses.

**Penalties for Offenses Related to Drugs and Driving Under the Influence**

The General Assembly considered nine bills related to the penalties for drug offenses and driving under the influence.

**Driving under the influence.** The legislature considered four bills related to driving under the influence (DUI). Two of the bills addressed driving while under the influence of marijuana, and the other two bills concerned repeat offenders. 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 within two hours after driving exceed a blood alcohol content (BAC) of 0.08. Current law also specifies that in any prosecution for DUI, driving while ability impaired (DWAI), vehicular homicide, or vehicular assault, if a driver's BAC was 0.08 or greater at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of alcohol. Under current law, there is no corresponding DUI per se charge or permissible inference for drivers accused of driving while under the influence of drugs.

**House Bill 13-1325**, which was adopted by the General Assembly, states that if a driver's blood contains five nanograms or more of delta 9-tetrahydrocannabinol (THC) per milliliter in whole blood at the time of the offense or within a reasonable time thereafter, this fact gives rise to a permissible inference that the defendant was under the influence of one or more drugs. THC is the primary psychoactive component of marijuana. Prior to the passage of House Bill 13-1325, the legislature postponed indefinitely **House Bill 13-1114**, which was identical to House Bill 13-1325.

**House Bill 13-1240** modifies the definition and penalties for persistent drunk drivers. In particular, the bill:

- lowers the BAC threshold for a person to be considered a persistent drunk driver from 0.17 to 0.15;
- adds a person whose license is revoked for refusing a BAC test to the list of persons who may be defined as a persistent drunk driver;
- requires that a persistent drunk driver use an interlock device on his or her vehicle for one year after his or her driver's license has been reinstated;
- allows a person who has had their license revoked for one year for DUI, DUI per se, or DWAI to apply for early reinstatement one month after a revocation, provided that he or she has an interlock device and is over 21 years old;
• requires the Department of Revenue to assist in the cost of the interlock device for indigent persons in certain circumstances; and
• allows most revocation penalties for offenses that occur on or after January 1, 2014, to be administered concurrently instead of consecutively.

House Bill 13-1214 which was postponed indefinitely, would have increased the penalty for repeated offenses of DUI, DUI per se, DWAI, vehicular homicide, and vehicular assault. Under the bill, the penalty would have been increased from an unclassified misdemeanor to a class 5 felony if the violation occurred not more than seven years after the first of two prior convictions or the violation occurred after three prior convictions. The bill also would have established requirements for offenders to participate in substance abuse driving safety programs, submit to continuous alcohol monitoring, and use interlock devices.

Drug sentencing laws. Senate Bill 13-250 makes a number of changes to current law concerning the sentencing of individuals convicted of drug-related offenses. In particular, it:

• creates new felony and misdemeanor drug sentencing grids;
• assigns each existing drug crime a new drug penalty based on the new sentencing grids;
• adds all drug felonies to the habitual sentencing schemes;
• establishes a sentencing option for offenders convicted of certain drug felonies that allows the court to vacate the felony conviction and enter a misdemeanor conviction in its place if the offender successfully completes a community-based sentence (probation or community corrections);
• requires the court to exhaust alternative sentencing options for certain class 4 felony drug offenses prior to sentencing an offender to prison;
• requires the court to hold a resentencing hearing or make written findings for any class 4 felony drug offender who is terminated from a community corrections program;
• allows the court to impose residential drug treatment as a probation condition for drug misdemeanors;
• allows defendants convicted of misdemeanor drug offenses to be sentenced to an intensive supervision program if appropriate; and
• prohibits a plea agreement involving a drug offense from requiring a waiver of the defendant's right to petition for the sealing of his or her conviction records.

Under current law, if a person violates the terms of a deferred judgment and sentence (DJS), the court is required to enter the guilty plea and impose the original sentence. If the DJS is related to a drug offense, the bill allows but does not require the court to continue the DJS and impose new requirements intended to help the person complete it successfully. This particular provision regarding the terms of a DJS for drug-offenses was originally the subject of a separate bill, Senate Bill 13-253. When the provision was added to Senate Bill 13-250, Senate Bill 13-253 was deemed lost.

Two bills adopted by the legislature concerned liability for certain drug offenses. Current law exempts employees and volunteers of an approved syringe exchange program from being charged with a misdemeanor offense under state drug paraphernalia laws. Senate Bill 13-208 expands this exemption to include program participants. Senate Bill 13-014 provides immunity from criminal and civil liability for a person other than a health care provider or a health care facility who acts in good faith to administer an opiate antagonist to another person who is believed to be suffering an opiate-related overdose. An opiate antagonist blocks the effects of prescription and
illicit opioids. The bill also provides immunity from criminal and civil liability, and charges of unprofessional conduct, for licensed prescribers and dispensers of opiate antagonists based on the good faith administration of an opiate antagonist.

Finally, Senate Bill 13-283, among other provisions, requires the Colorado Commission on Criminal and Juvenile Justice to make recommendations to the General Assembly regarding criminal laws that need to be revised to ensure statutory compatibility with Amendment 64, which allows adults 21 years old or older to possess and grow marijuana, with some restrictions.

Miscellaneous

Colorado Commission on Criminal and Juvenile Justice. The Colorado Commission on Criminal and Juvenile Justice (CCJJ) was established in 2007 to engage in an evidence-based analysis of the criminal justice system in Colorado and to report annually to the Governor, the General Assembly, and the Chief Justice of the Colorado Supreme Court. The commission consists of 26 voting members and one nonvoting member appointed from various executive branch agencies, the Judicial Branch, the Legislative Branch, criminal justice entities, and the public at large. Senate Bill 13-007 extends the repeal date of the CCJJ from July 1, 2013, to July 1, 2018. House Bill 13-1195 directs the CCJJ to review the implementation of the human trafficking statutes since their inception in 2007 and to submit a report to the General Assembly on or before January 1, 2014. At a minimum, the report is to include:

• the number of cases prosecuted and the number of resulting convictions for human trafficking;
• the number of cases prosecuted and the number of resulting convictions for attempt, solicitation, and conspiracy related to human trafficking;
• the circumstances involved in each of the cases identified;
• the sentences imposed for convictions; and
• any other relevant information.

Other. Each year, the General Assembly adopts a criminal omnibus bill to make minor changes to criminal laws. Senate Bill 13-229 addresses several areas. Regarding juvenile offenses, the bill:

• clarifies that when a person is convicted of a sex offense, he or she is eligible to petition to be removed from the sex offender registry if he or she was a juvenile at the time the crime was committed and certain conditions are met;
• creates a new class 3 misdemeanor for a juvenile who escapes custody after turning 18 in a staff secure facility as an alternative to the class 3 felony available under current law for leaving a state-operated locked facility;
• requires a juvenile who is subject to a direct file or transfer be held in a county jail once he or she turns 18; and
• requires a mandatory ten-year parole supervision period for a juvenile convicted of any class 1 felony, rather than just murder in the first degree.
Regarding court proceedings, the bill:

- requires the probation department, at the request of the district attorney or defense, to provide a presentencing report at least seven days before a sentencing hearing, rather than the current three-day requirement;
- directs the court to grant the probation department an extension in the amount of time required to prepare a presentencing report if requested, and to reschedule a hearing so that it is held seven days after the report is made available;
- specifies that, if there is a stipulation to jail time accepted by the court or if the defendant is already serving a sentence in the Department of Corrections, a presentencing report is not required to include a sex offender evaluation, but one may be ordered by the court;
- clarifies that the time frames for applying for entry of conviction and imposition of sentence for a deferred prosecution also apply to juvenile deferred adjudications;
- requires the court to seal the record for a deferred disposition or multi-case disposition if the petition is sufficient on its face; and
- clarifies that a person may petition to seal the records for a drug conviction only once every 12 months.

Regarding criminal offenses, the bill:

- amends the crime of first degree burglary to require the offender to have threatened the use of a deadly weapon, rather than only possess the weapon during the crime; and
- adds securities fraud to the list of crimes where the statute of limitations begins upon the discovery of the act, rather than when the act was committed.

Lastly, the bill contains other provisions affecting the criminal justice system, such as:

- requiring that an analysis of comparable crimes included in a bill's fiscal note include gender and ethnicity data;
- changing the definition of a felony complaint to require the prosecutor to sign and file the complaint with the court;
- modifying the definition of restitution to include medical costs provided for a victim as a result of the offender's conduct that were paid for by a government agency or insurer;
- allowing a district attorney to appoint one or more part-time deputy district attorneys, who do not practice criminal defense in the jurisdiction or are employed by the Colorado District Attorneys' Council, to fulfill the duties of the district attorney without county commissioner approval; and
- removing a requirement that a part-time district attorney be paid by the county he or she serves, and allows this cost to be shared among the counties within the judicial district.