



# Legislative Council Staff

## Research Note

Version: Final

Date: 2/2/2017

### Bill Number

**Senate Bill 17-010**

### Sponsors

**Senator Kagan  
(None)**

### Short Title

**Revise Habitual Criminal Statute**

### Research Analyst

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### Status

This research note reflects the introduced version of the bill, which was postponed indefinitely by the Senate Judiciary Committee on February 1, 2017.

### Background

Under existing law, an offender who is a habitual criminal because he or she has committed two prior qualifying offenses within the previous ten years (Section 18-1.3-801 (1.5), C.R.S.) must be sentenced to imprisonment for three times the maximum of the presumptive range for the most recent offense. If the most recent offense is a level 1 drug felony, the offender must be imprisoned for 48 years. If an offender is a habitual criminal because he or she committed three prior qualifying offenses (Section 18-1.3-801 (2), C.R.S.), he or she must be sentenced to imprisonment for four times the maximum of the presumptive range for the most recent offense. If the most recent offense is a level 1 drug felony, the offender must be imprisoned for 64 years. An offender who is a habitual criminal because he or she is convicted of a class 1 or 2 felony, a class 3 crime of violence felony, or a level 1 drug felony, and has two prior convictions for any offense classified as a class 1 or 2 felony, a class 3 crime of violence felony, or a level 1 drug felony must be sentenced to life imprisonment.

The following offenses are defined in state law as crimes of violence when a person: 1) used, or possessed and threatened the use of, a deadly weapon; or 2) caused serious bodily injury or death:

- a crime against an at-risk adult or an at-risk juvenile;
- murder;
- first or second degree assault;
- kidnapping;
- a sexual offense;
- aggravated robbery;

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- first degree arson;
- first degree burglary;
- escape; and
- criminal extortion.

Additionally, any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim is a crime of violence.

## Senate Action

**Senate Judiciary Committee (February 1, 2017).** At the hearing, the committee heard testimony in favor of the bill from representatives of the Colorado Criminal Defense Bar, the Sam Carey Bar Association, and the ACLU of Colorado. Representatives of Mothers Against Drunk Driving, the Colorado Organization for Victim Assistance, and the Colorado District Attorneys' Council testified in opposition to the bill. A private citizen and a representative from the Colorado Coalition Against Domestic Violence testified to the committee without taking a position on the bill.

The committee adopted amendments L.001 and L.002, which clarified the crimes that would qualify for habitual criminal status under the bill, and postponed indefinitely the bill.

## Relevant Research

Legislative Council Staff, *Crime Classification Guide*, May 2014: <http://tinyurl.com/h86ovzd>.

Legislative Council Staff, *Special Sentencing for Felony and Misdemeanor Offenses*, Interested Persons Memorandum, October 9, 2012: <http://tinyurl.com/j8wsm44> (pdf).