



Colorado District Attorneys' Council (CDAC)

HB 16-1066 – HABITUAL DOMESTIC VIOLENCE OFFENDERS

- HB 16-1066 recognizes the need to **amend and update the Domestic Violence (DV) Sentencing statute** as it applies to habitual DV offenders – those who commit and are convicted of more than 3 DV offenses, in separate cases, within their lifetime. Currently, the law allows for 4th time (or more) misdemeanor offenders to be charged with a Class 5 Felony.
- **Current law is difficult to charge and prosecute to completion**, due to the requirement of proving three prior DV convictions. The statute is applied unevenly throughout the state, providing for unequal justice for victims of domestic violence and allowing repeat offenders to forego increased accountability called for by the Legislature in 2000.
- **Only 12 individuals have been convicted annually on average over the past 15 years** and sentenced to the enhanced habitual domestic violence statute. The fiscal note from the original law in 2000 (HB 00-1158) estimated an average of 25 convictions per year.
- Recent **U.S. Supreme Court case law raises doubts about the constitutionality** of the habitual DV sentencing statute which currently calls for a judge to make a “finding” of domestic violence in any particular case. HB 1066 updates the law and now requires a jury – *the trier of fact* – to determine whether an offense charged included an act of domestic violence.
- Confirms that a felony case (F5) **may proceed to sentencing without further judicial findings** if the 3 or more prior underlying DV cases included a finding of a domestic violence made by a jury, or was admitted to by a defendant. If a prior conviction did not include a jury finding or defendant admission, **the prosecution bears the highest burden of proof** – proof beyond a reasonable doubt – to prove the 3 prior convictions included an act of domestic violence.
- **Clarifies the procedural and evidentiary requirements** that the court and the parties to a case must abide by to proceed with a felony charge of habitual domestic violence.
- **Habitual domestic violence offenders will be held more accountable** due to an update of the law consistent with constitutional principles and better charging requirements and sentencing clarity for prosecutors.