

Week in Review 03: Jan 27 – Feb 6 / 2023

Newsworthy Items from Under the Dome

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For various reasons, last week was a pretty slow in the House of Representatives. Most consequential and controversial bills have been moved to this week, perhaps even beyond this week. I'll give you the highlights, below. All are slated to be voted on this week by the whole House either for initial, post-committee approval (second reading) or final approval (third reading). I've attached a pdf regarding 'How a Bill Becomes Law' at the end of this document to enable you to better understand the legislative process. The bills mentioned below could come up on any day; you can find the daily calendar at: <https://leg.colorado.gov> (you can find a link to the House calendar about half-way down the page).

Regarding HB24-1092 (the first bill listed), on this and any other bill legislators can be contacted via phone calls to their offices, in-person visits, and via email. While you'll likely want to contact your own representative first, all of them have the label "state representative" and thus would profit from you input, should you wish to give it.

- On Thursday, February 15 the House Military and State Affairs Committee will hear HB24-1092 (re 'requiring a minimum period of incarceration for persons who commit actions against prostituted children').

❖ **Background**

- Societies have criminal codes and laws to punish lawbreakers because the criminal behavior itself threatens the civil rights of others; in the language of the constitution, the criminal behavior is a threat to life, liberty, or the pursuit of happiness.
- On this matter the church is informed by the writings of the apostle Paul, who identified the punishment of 'evildoers' as the chief role of civil government (Romans 13:1-7).
- Nevertheless, we all recognize that some crimes are worse than others because they are perpetrated against the innocent and defenseless; these terms are particularly applicable to children.
- Unfortunately, sexual crimes against children are alive and well in our society¹; according to data accompanying the bill, the following crimes were prosecuted since 2020:
 - ≈ Soliciting for child prostitution (class 3 felony). From FY 2020-21 to FY 2022-23, 72 individuals have been convicted and sentenced for this offense. Of the persons convicted, all 72 were male. Demographically, 53 were White, 7 were Black/ African American, 7 were Hispanic, 3 were Asian, and 2 were classified as "Other."
 - ≈ Pandering of a child (class 2 and 3 felony). From FY 2020-21 to FY 2022-23, 4 individuals have been convicted and sentenced for this offense. Of the persons convicted, all 4 were males. Demographically, 3 were White and 1 was Black/ African American.
 - ≈ Procurement of a child (class 3 felony). From FY 2020-21 to FY 2022-23, 1 Black/ African American individual was convicted and sentenced for this offense.
 - ≈ Keeping a place of child prostitution (class 3 felony). From FY 2020-21 to FY 2022-23, 1 black/ African American woman was convicted and sentenced for this offense.
 - ≈ Pimping a child (class 3 felony). From FY 2020-21 to FY 2022-23, 4 have been convicted and sentenced for this offense. Of the persons convicted, all 4 were male. Demographically, 1 was White, and 3 were Black/ African American.
 - ≈ Inducement of child prostitution (class 3 felony). From FY 2020-21 to FY 2022-23, 5 individuals have been convicted and sentenced for this offense. Of the persons convicted, all 5 were male. Demographically, 3 were White, 1 was Black/ African American, and 1 was Hispanic.
 - ≈ Patronizing a prostituted child (class 3 felony). From FY 2020-21 to FY 2022-23, 9 individuals have been convicted and sentenced for this offense. Of the persons convicted, all 9 were males. Demographically, 6 were white, 2 were Black/ African American, and 1 was Hispanic.
- Under current law, various crimes related to child prostitution are class 3 felonies. These crimes include soliciting for child prostitution, one type of pandering of a child,

¹ See, for example: <https://www.kktv.com/2023/11/08/major-sting-western-colorado-catches-10-alleged-child-sex-predators/>; also: <https://www.cbsnews.com/colorado/news/10-arrested-in-denver-metro-area-child-predator-sting-operation/>; and

procurement of a child, keeping a place of child prostitution, pimping of a child, inducement of child prostitution, and patronizing a prostituted child. Under current law, the crime of pandering of a child is either a class 2 or a class 3 felony, depending on the conduct involved. Pandering that uses menacing or criminal intimidation to induce a child to commit prostitution is a class 2 felony.

❖ **The Bill**

- Under the bill, people convicted of these crimes will spend time in jail; for these crimes the sentence run between 4 and 8 years, with sentences typically reduced for good behavior.

❖ **The Upside**

- A jail sentence would keep demonstrably vile perpetrators away from the public and other potential victims.
- The threat of a jail sentence might cause would-be felons to think twice about acting on their impulses.

❖ **The Downside**

- A felony conviction stays with a person for life – but given that the felon has already adversely impacted a child for the rest of his or her life, it only seems fair; put another way, I don't see the downside.

➤ **HB24-1007** (re 'residential occupancy limits')

❖ **Background**

- In 2023 the Governor attempted to pass an omnibus housing bill (SB23-213) that offered wide-ranging changes to existing law. Virtually every municipality in the state opposed the bill, and it eventually died on the calendar.
- In 2024, Democrats have divided SB 213 into more digestible pieces and are trying to pass its provisions in unique, stand-alone bills. HB24-1007 is one of those bills.
- As noted before, Colorado needs more affordable housing.
 - ≈ According to a November 2023 [report](#) from the Denver Post, Colorado faces a shortfall of 100,000 houses and apartments; at least one [source](#) put the number higher, at 127,000.
 - ≈ Since the 2008 financial crisis, home building is 46% lower than the annual average in the 8 years leading up the recession. If Colorado were to return to the average housing to population ratio between 1986 and 2008 it would require an additional 175,000 housing units across the state today. To close that gap and meet the future population needs Colorado will need to develop 54,190 new housing units annually over the next five years.²
 - ≈ The median [price](#) in September 2023 for a single-family home in the Front Range varied from about \$500k to \$720; for the rest of the state, prices varied wildly. Nationwide the cost of regulatory compliance accounted for about 24% of the price of a new home.³
 - ≈ To be sure some of these state and local regulations are important – we all want homes with safe and reliable electrical power and plumbing. But increasingly the costs of a home must account for expensive environmental building codes and aesthetic demands that offer no advantage to the owner or the planet for decades to come (e.g., lower utility bills).
 - ≈ The combination of housing scarcity and high costs for single-family homes has meant that apartment rental pricing has increased – a function of supply and demand. The median price per month for an apartment in the Denver-Aurora-Lakewood area in 2023 was [\\$1969](#); the median rent elsewhere in the state was [\\$1498](#).
 - ≈ According to a [joint study](#) by the National Association of Homebuilders and the National Multifamily Housing Council, government red tape adds nearly a third – 32.1% – to the price of apartments; you can bet those costs are passed along to consumers, and in Colorado we've had an unending parade of new regulations on housing.

² Per: <https://commonsenseinstitute.co/co-housing-blueprint/>.

³ For 2021; I doubt costs have gone down (see: <https://www.nahb.org/-/media/NAHB/news-and-economics/docs/housing-economics-plus/special-studies/2021/special-study-government-regulation-in-the-price-of-a-new-home-may-2021.pdf?rev=29975254e5d5423791d6b3558881227b>).

- Additional explanations for the current lack of ‘affordable housing’ might include things like:
 - ≈ Americans are waiting longer to get married and form families than prior generations; as a result, there are more single people in need of housing now than before, and this fact increases demand;
 - ≈ There are more illegal immigrants here now than ever before, and a large percentage of them are unlikely to have family in the United States that could offer them lodging⁴, their presence increases demand;
 - ≈ The increased costs associated with more regulations, along with the higher price of utilities and borrowing makes housing affordability an issue for many people;
 - ≈ For many Progressives, the solution to these problems is to try to cap prices – but the only proven long-term solutions would include creating more supply and lowering the regulatory burdens faced by builders.

❖ The Bill

- The heart of the bill is this:

29-20-111(5). A LOCAL GOVERNMENT SHALL NOT LIMIT THE NUMBER OF PEOPLE WHO MAY LIVE TOGETHER IN A SINGLE DWELLING BASED ON FAMILIAL RELATIONSHIP. LOCAL GOVERNMENTS RETAIN THE AUTHORITY TO IMPLEMENT RESIDENTIAL OCCUPANCY LIMITS BASED ONLY ON DEMONSTRATED HEALTH AND SAFETY STANDARDS, SUCH AS INTERNATIONAL BUILDING CODE STANDARDS, FIRE CODE REGULATIONS, OR COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WASTEWATER AND WATER QUALITY STANDARDS.
- The bill defines a local government as: “A HOME RULE OR STATUTORY CITY, HOME RULE OR STATUTORY COUNTY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY”.

❖ The Upside

- The bill allows property owners to use their property as they see fit, in so doing the bill might provide some relief to our ‘affordable housing crisis’. In

❖ The Downside

- Homeowners that voluntarily participate in an HOA that has occupancy limits (and it’s not clear that any in Colorado currently have these limits) voluntarily decline to exercise the ability to do a host of things with their property – the bill drafter suggested to me that HOAs were not impacted by the bill ... I expect we’ll seek clarification to learn whether or not the removal of occupancy limits applies to properties in an HOA.
- To the extent that there are occupancy limits in a given locale (in about a half-dozen out of a couple hundred municipalities in Colorado), the limits are the product of a deliberative process or in some instances a vote at the local government level – so why do we suppose that the State legislature, which is further from the people than local officials, knows better?
- Local governments made the point in testimony that any number of health and safety issues might lead to occupancy restrictions; unfortunately, the ‘health and safety’ metric in the bill would tend to tie the hands of local officials for fear of being sued.

- **HB24-1091** (re ‘prohibiting restrictions on the use of fire-hardened building materials in residential real property’)

❖ Background

- The Marshall fire caused widespread devastation in the Boulder County area in late-December 2021, burning over 1200 homes; you can read about it and some subsequent developments [here](#), [here](#), and [here](#).
- In the process of rebuilding, many residents learned that they were required to follow the rules established by their local HOAs – in several instances, this meant using construction materials like cedar that had contributed to the severity and speed of the Marshall blaze.
- Residents could appeal to local HOAs to change rules, but the changes have been slow to materialize.
- Boulder-based House members want to nullify the ability of local HOAs when it comes to

⁴ See: <https://thehill.com/opinion/immigration/4238426-the-migrant-and-housing-crises-are-colliding-with-predictable-results/>; see also: <https://www.axios.com/2023/09/23/housing-crisis-migrant-immigrants-homeless>.

mandating the construction materials to be used during a rebuild.

- This bill concerns the ability of the state government to impose its will when locally elected organizations won't budge.
- Nevertheless, according to the lobbyist [page](#) of the Secretary of State, no group stands opposed to the bill while several support it.

➤ **HB24-1017** (concerning a bill of rights for youth in foster care')

❖ **Background**

The issue of 'Foster Care' is described in Colorado's Revised Statutes 19-7-101 *et seq.* A great many of the 'rights' envisioned in HB24-1017 are already found in law. The Department of Human Services has created training for adults that might wish to serve children as foster parents; you can learn more about Foster Care in Colorado [here](#). To summarize: "Foster parents provide a safe, temporary home for children and youth whose parents or caregivers are unable to care for them. When a child or teenager is removed from their home and a caseworker is unable to identify a family friend or relatives to care for them temporarily, they are placed in foster care. It is important to remember that when a child or teenager is removed from their home the primary goal is usually to return the child or teenager to their parent or caregiver once they can provide a safe and stable home".

❖ **The Bill Itself**

The bill establishes statutory rights for foster care youth, requires county human service departments to provide written notice to foster youth about their rights, and clarifies the authority of courts to enforce these rights. The rights of foster care youth include:

- ≈ freedom from discrimination or harassment;
- ≈ freedom of thought, cultural and ethnic practice, and religion;
- ≈ freedom to express gender identity;
- ≈ freedom from threats, punishment, retaliation for asking questions, stating concerns, or making complaints about violations of their rights;
- ≈ access to services, placements, and programs they are eligible for;
- ≈ notification of the benefits they are eligible for;
- ≈ the ability to request information on how payments were used by individuals who accepted payments for the youth;
- ≈ the right to receive appropriate placement and care including being placed in a safe environment that is free of abuse, having their preferences regarding placement considered, and having providers who are aware of their history;
- ≈ the right to timely court proceedings and effective case management;
- ≈ the right to a timely notification to the Social Security Administration to initiate the transfer of benefits from providers to youth who are leaving the custody of the department;
- ≈ the right to access and communicate privately with caseworkers, legal representatives, advocates, probation officers, and other professionals;
- ≈ the right to confidentiality and privacy;
- ≈ access to education, basic essentials, and health care;
- ≈ ability to participate in legal proceedings and case planning; and
- ≈ access to certain necessities and support that will allow them to be self-sufficient in their transition to adulthood.

Foster youth rights apply to youth age 5 and older, do not limit or supersede the right of parents, and do not apply to youth detained or in the care of the Department of Human Services (CDHS) Division of Youth Services.

The Office of the Child's Representative (OCR) must develop a written notice of rights and county human service departments must provide the notices to youth above 5 years old at their initial placement in foster care, at each placement change, and at least annually.

❖ **The Upside**

The committee heard from several young people that are or were in foster care; many of the stories were heartbreaking in that they detailed how foster children can be treated as second-class citizens within

fostering homes. Most of the provisions in the bill are intended to remedy this sort of mistreatment.

❖ **The Downside**

- Many of the ‘rights’ described above come not from the text of the bill itself but from its ‘legislative summary’; unfortunately, as is usually the case, the ‘devil’s in the details’. In the case of HB 1017, the bill says explicitly,
 - (2) A CHILD OR YOUTH IN FOSTER CARE OR PARTICIPATING IN THE FOSTER YOUTH IN TRANSITION PROGRAM, CREATED IN PART 3 OF THIS ARTICLE 7, BUT EXCLUDING A CHILD OR YOUTH DETAINED BY OR COMMITTED TO THE CARE AND PHYSICAL CUSTODY OF THE DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF HUMAN SERVICES, HAS THE FOLLOWING RIGHTS: (I) FREEDOM FROM DISCRIMINATION OR HARASSMENT ON THE BASIS OF ACTUAL OR PERCEIVED RACE OR ANCESTRY, ETHNIC GROUP, NATIONAL ORIGIN, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, MENTAL OR PHYSICAL DISABILITY, MARITAL STATUS, FAMILIAL STATUS, SOURCE OF INCOME, MILITARY STATUS, OR HIV STATUS; (II) FREEDOM OF THOUGHT, CONSCIENCE, CULTURAL AND ETHNIC PRACTICE, AND RELIGION, INCLUDING THE RIGHT TO ATTEND OR REFUSE TO ATTEND CULTURAL, ETHNIC, AND RELIGIOUS SERVICES AND ACTIVITIES; (III) EXPRESSION OF THE CHILD’S OR YOUTH’S GENDER IDENTITY AND BE REFERRED TO BY THE CHILD’S OR YOUTH’S PREFERRED NAME AND GENDER PRONOUNS; (IV) FREEDOM FROM THREATS, PUNISHMENT, OR RETALIATION FOR ASKING QUESTIONS, STATING CONCERNS, OR MAKING COMPLAINTS ABOUT A VIOLATION OF THE RIGHTS AND PROTECTIONS ESTABLISHED IN THIS ARTICLE 7 ...
 - Both in Colorado and in the United States more broadly, a large percentage of those who become foster parents do so based on their religious convictions ([here](#) and [here](#)). Under the terms of this bill, the foster parents of a 5- or 10-year old child could be subject to sanction for taking a child to synagogue or Sunday School should the child object; similarly, if a 13-year old fostered child insisted on being called a girl, but the foster parents do anything other than offer affirmation, the parents will be subject to legal sanction.
 - Moreover, children suffering from gender dysphoria at a given point in time often change their minds, sometimes with and sometimes without adult encouragement ([here](#), [here](#), [here](#), and [here](#)) – but this bill would prevent a foster parent from giving wise advice that might spare a young person from unhappiness and self-harm.
 - Already in Colorado there are more children needing foster care than adults willing to provide it ([here](#) and [here](#)) – what will happen to these children if would-be foster parents decide to opt-out of the system because the state government is threatening to punish them for exercising their rights as parents?
 - How long before Progressives in Colorado decide that all children in Colorado such enjoy the same ‘rights’ as children in foster care?
 - It appears that Progressives are willing to sacrifice needy foster children on the altar of “gender-affirming” ideology, despite evidence that more kids will be hurt than helped – is that what we’re now calling ‘compassion’?
- **HB24-1071** (concerning ‘permitting a name change for a person convicted of a felony to conform with the person’s gender identity’)
- ❖ **Background** – Under current law those convicted of a felony can change their name under certain conditions
 - ❖ **The Bill** – adds those wanting their name to conform to their ‘gender identity’ to the approved conditions.
 - ❖ **The Upside** – can’t think of a rational upside.
 - ❖ **The Downside** – might muddy the waters when it comes to background checks for certain occupations; adds a legal gloss to the self-delusion of those in the midst of gender dysphoria.
- On Thursday, February 15 the House – Committee will hear HB24-1072 (re ‘requiring a minimum period of incarceration for persons who commit actions against prostituted children’).

HOW A BILL BECOMES LAW IN COLORADO

