



**DENVER**  
THE MILE HIGH CITY

# **Maximum Penalties for Violent Offenders**

Special Committee Meeting

May 11, 2017

- A noncitizen is deportable for a single conviction of a crime involving moral turpitude committed within five years of admission, if the offense has a potential sentence of one year or more. INA § 237(a)(2)(A), 8 USC § 1227(a)(2)(A).

- Citizenship
  - 8 U.S. Code Sec. 1401 defines who is a citizen of the United States. In summary, a citizen of the United States is someone born in the United States or is born outside of the United States but has a parent who is a United States Citizen.
  - A non-citizen can become a lawful resident of the United States in a number of different ways including becoming a lawful permanent resident or receiving a work or student visa.

- Who is impacted by 365?
  - Anyone with a legal status
  - Legal permanent residents
  - Student Visa
  - Work Visa

- What about undocumented immigrants?
  - In the case of an undocumented immigrant, the federal government has a basis for deportation based on status alone i.e., in the country without proper documentation and proper entry
  - 364 days vs. 365 days will not change risk of deportation for these immigrants

# Selection of Offenses for 365

- There are thousands of potential municipal ordinance violations
- Proposal eliminates the unintended immigration consequences of 365 by moving to either 300 days or 60 days depending on the crime

- Identifies the following sentencing enhancers as a basis for 365
  - Those that commit crimes of hate
  - Those that commit sexual offenses
  - Those that prey on our at-risk residents
  - Those that assault law enforcement
  - Those that inflict serious bodily harm
  - Those that strangle their victims
  - Those that habitually commit acts of violence against their partners
- Must be proven as a separate element

- There are individuals in our community that commit such deplorable acts that they should be subject to the most severe penalties available
- Message that we will not tolerate violent acts and if you commit one of these seven acts you may be punished in the most severe manner available



- “We will not shield criminals in Denver, but we need to do so in ways that enhance, and do not detract from public safety. This is critical to the safety of our entire community.”
- If changed to 364 for violent crimes, we would potentially be shielding our most violent criminals from collateral consequences of their actions



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THE DENVER POST established 1892  
"There is no hope for the satisfied man."  
Post founder Frederick G. Bonilla, 1861-1933

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## The Post Editorials

# Smart changes in sentencing

Denver Mayor Michael Hancock's plan to reform low-level jail sentences, and in doing so protect immigrants from deportation, makes a lot of sense and has a lot of heart.

The new sentencing structures would alert Immigration and Customs Enforcement to truly bad actors, but would avoid what amounts to reckless notification of federal officials when immigrants commit low-level violations that pose little threat to overall public safety. The new sentences would also add a humane touch.

Hancock's ideas align with the Obama administration's more humane stances on deportation that continued a decades' long tolerance of undocumented immigrants who stayed off law enforcement's radar screen.

The timing of the reform effort serves as a needed antidote to the poisonous fears the Trump administration's crackdown instills in already vulnerable communities. But that's not all. The proposed sentencing changes also would prove more just to low-level offenders of all backgrounds, while also easing crowded conditions at the jail — a plus for taxpayers.

Since the "Summer of Violence" days in 1993, Denver has relied on a one-size-fits-all approach in sentencing misdemeanors and other violations of city ordinances: up to 365 days in jail and \$999 in fines. Before then, maximum stays had been set at 180 days.

The mayor's goal is to instead place offenses into three broad categories that reduce punishments for all but the most serious violations. That is in line with broader sentencing reforms and arguably past due.

The number to watch in all of this is 365. Under federal law, ICE is notified when any immigrant, whether here legally or otherwise, is handed a conviction that could come with a year-long, or 365-day, jail sentence. ICE is notified

even if the judge doesn't give the maximum sentence.

Under the mayor's proposal, low-level infractions, like urinating in public, would see a reduced sentencing range of no more than 60 days and no fines. Mid-level abuses, like trespassing and low-level assault, would cap jail stays at 300 days and leave fine levels as they are now. Top-level offenses would remain unchanged.

"We are not going to shield violent criminals," Hancock tells us, and rightly so. Some council members and immigrant advocates are calling for the most-serious category of sentences to stop at 364 days, in order to protect even this class of lawbreakers from ICE notification. That's unwise, and it undermines their credibility on the overall debate.

What about domestic violence offenders? The mayor's plan would allow first and second-time abusers to fall in to the middle class of sentences, as long as their assaults didn't result in bodily harm. A third offense or needed medical attention for the victim elevates the charge to the top class, if not state court.

Hancock says experts who deal with domestic violence say abusers can be rehabilitated if treated early, and multiple victim's advocates testified in favor of the mayor's plan at a committee meeting. Victims shouldn't fear calling police to deescalate an argument heading toward violence because they or their husband could be deported. Denver County Court's presiding judge, Theresa Spahn, testified that all 17 judges on the court support the sentencing changes.

Some council members understandably question whether the new sentences are being rushed, and note that a lack of data makes it impossible to predict whether the new rules would actually reduce crowding at the jail. We would expect that the new sentencing structure would ease crowding.

The proposal strikes us as fair, sound and worthwhile.

- Denver Post Editorial, 5-7-17:
  - “The new sentencing structures would alert Immigration and Customs Enforcement to truly bad actors, but would avoid what amounts to reckless notification of federal officials when immigrants commit low-level violations that pose little threat to overall public safety.”
  - “...plan to reform low-level jail sentences, and in doing so protect immigrants from deportation, makes a lot of sense and has a lot of heart”
  - “The proposal strikes us as fair, sound and worthwhile.”

- A change to 364 says that we, as a City, believe these crimes are so minor that there should be no collateral immigration consequences for these convicted offenders.

# First municipal domestic violence offense, March 2017





First municipal  
domestic violence  
offense, January  
2016

## Third municipal domestic violence offense, October 2016







## Second domestic violence offense, September 2015

