

CLASS 5 FELONIES

Elements of Offense

C.R.S. Citation

ELECTIONS

Election Offenses

1. **Penalties for election offenses - forgery.** Anyone who forges, makes, or alters any ballot, petition, nomination paper, or letter of acceptance, declination, or withdrawal, commits forgery in the second degree, as described in section 18-5-102 (2), which is a class 5 felony. 1-13-106
2. **Voting by persons not entitled to vote.** Any person voting in any election provided by law knowing that he or she is not entitled to vote in such election commits a class 5 felony. 1-13-704.5 (1)

CONSUMER AND COMMERCIAL AFFAIRS

Colorado Antitrust Act of 1992

3. **Violations.** Violation of any of the provisions of sections 6-4-104, 6-4-105, or 6-4-106 of the Colorado Antitrust Act of 1992 regarding illegal restraint of trade or commerce, monopolization, and bid-rigging is a class 5 felony. 6-4-117 (2)

Colorado Charitable Solicitations Act

4. **Charitable fraud.** The commission of charitable fraud according to section 6-16-111 (1) (b), (c), (d), (f), or (g) is a class 5 felony. 6-16-111 (2)
Charitable fraud pursuant to section 6-16-111 (1) (a) or (e) involving three separate contributors in any one solicitation campaign is a class 5 felony. 6-16-111 (3)

LABOR AND INDUSTRY

Offenses Related to the Division of Labor

5. **Penalty for false statements - Industrial Commission - Division of Labor.** Anyone who willfully makes a false statement or misrepresentation for the purposes of obtaining a benefit under Article 1 of Title 8 regarding the Division of Labor's Industrial Claim Appeals Office commits a class 5 felony. 8-1-144

Offenses Related to Workers' Compensation

6. **Penalty for false statements/Workers' Compensation Act of Colorado.** Anyone who willfully makes a false statement or misrepresentation material to the claim in order to obtain labor benefits under Articles 40 to 47 of Title 8 commits a class 5 felony. 8-43-402

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FINANCIAL INSTITUTIONS

Offenses Related to Savings and Loan Associations

7. ***Defrauding savings and loan associations.*** Any employee of any savings and loan association who attempts to steal or defraud the association of any of its funds, securities, or properties commits a class 5 felony. 11-41-127 (1)

Colorado Banking Code

8. ***Penalty for violation or non-performance of duties concerning the State Banking Commission.*** Any person who willfully fails to perform any act required, or commits any act in violation of his or her duties concerning bank examinations and liquidations commits a class 5 felony. 11-107-109

PROFESSIONS AND OCCUPATIONS

Offenses Related to Medical Practice

9. ***Unprofessional conduct.*** Dispensing or injecting an anabolic steroid unless dispensed pursuant to a written prescription or dispensed by a practitioner is a class 5 felony. 12-36-129 (2.5)

Colorado Parental Notification Act

10. ***False information - notification concerning abortion.*** It is a class 5 felony to counsel, encourage, or conspire to persuade a pregnant minor to provide false information to a physician about the minor's age, marital status, or other facts or circumstances in order to induce or attempt to induce the physician to perform an abortion without providing written notice required by Article 37.5 of Title 12. 12-37.5-106 (3)

Offenses Related to Alcoholic Beverages

11. ***Gambling activity - premises licensed to sell alcohol.*** It is a class 5 felony, in the case of an establishment licensed to sell alcoholic beverages, to permit or authorize gambling activity, except that which is conducted by an authorized nonprofit organization. 12-47-901 (5) (n) (II)

Colorado Limited Gaming Act

12. ***Violation of taxation provisions - gaming.*** Any person who makes any false or fraudulent return in an attempt to defeat or evade taxes imposed pursuant to the Colorado Limited Gaming Act commits a class 5 felony. 12-47.1-603 (1) (a)
- Any person who, twice within a year, fails to pay taxes due or file a return pursuant to the Colorado Limited Gaming Act commits a class 5 felony. 12-47.1-603 (1) (d)
- Any person who willfully aids, assists, procures, counsels, or advises, in any matter before the Colorado Limited Gaming Control Commission, a return, affidavit, claim, or other document which is fraudulent or contains false information, commits a class 5 felony. 12-47.1-603 (1) (e)

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13. ***False statement on application.*** Any person who knowingly makes a false statement in any application for a license, or who fails to keep books and records to substantiate receipts or expenses, or who falsifies any books or records relating to any transaction connected with any limited gaming, or who knowingly violates any of the provisions of the provisions of the Colorado Limited Gaming Act or any rule or regulation promulgated by the Colorado Limited Gaming Control Commission commits a class 5 felony. 12-47.1-802
14. ***Slot machines - shipping notices.*** Violation of any of the provisions regarding the shipping or importing of a slot machine into the state of Colorado is a class 5 felony. 12-47.1-803 (1) (b)
15. ***Cheating.*** Cheating at any limited gaming activity by an owner, employee of, or player at a limited gaming establishment is a class 5 felony if the person is a repeat gambling offender. 12-47.1-822 (3)
16. ***Fraudulent acts - gaming.*** Violation of any of the provisions of section 12-47.1-823 regarding fraudulent gaming acts is a class 5 felony if the person is a repeat gambling offender. 12-47.1-823 (2)
17. ***Use of a device for calculating probabilities.*** Use or possession of any device used to assist in projecting the outcome of a game, keep track of cards played, or analyze the probability of an event occurring or the strategy for playing or betting is a class 5 felony when the person is a repeat gambling offender. 12-47.1-824 (2)
18. ***Counterfeit or unapproved chips or tokens - unlawful devices, equipment, products, or materials.*** Violation of any of the provisions of section 12-47.1-825 regarding the use of counterfeit or unapproved chips or tokens, unlawful coins or devices, and the possession of certain unlawful devices, equipment, products, or materials commits a class 5 felony when the person is a repeat gambling offender. 12-47.1-825 (8)
19. ***Cheating game and devices.*** Knowingly conducting, operating, or allowing any cheating or thieving game or device, or knowingly dealing, conducting, or operating any game with cards or devices which have been marked or tampered with or operated in a manner that alters the normal results of the game is a class 5 felony when the offender is a repeat gambling offender. 12-47.1-826 (2)
20. ***Unlawful manufacture, sale, distribution of equipment and devices associated with limited gaming.*** Violation of any of the provisions of section 12-47.1-827 regarding the unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming is a class 5 felony when the offender is a repeat gambling offender. 12-47.1-827 (4)
21. ***Unlawful entry.*** Unlawful entry into the premises of a licensed gaming establishment by a person whose name is on the list of persons who are to be excluded and ejected from gaming establishments is a class 5 felony. 12-47.1-828 (3)
22. ***False or misleading information.*** Providing any false or misleading information pursuant to the Colorado Limited Gaming Act is a class 5 felony. 12-47.1-839 (2)

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Offenses Related to Real Estate

23. **Real estate appraisers.** A second or subsequent offense of acting as a real estate appraiser without a license or certificate that occurs within five years after the date of a prior conviction for the same offense is a class 5 felony. 12-61-712 (2)

DOMESTIC MATTERS

Offenses Related to Desertion and Nonsupport

24. **Nonsupport of spouse and children.** Any person who willfully neglects, fails, or refuses to provide reasonable support and maintenance for his or her spouse or children commits a class 5 felony. 14-6-101 (1)

PROBATE, TRUSTS, AND FIDUCIARIES

Colorado Medical Treatment Decision Act

25. **Colorado Medical Treatment Decision Act.** Any person who falsifies or forges a declaration of another person commits a class 5 felony. 15-18-113 (2)

CRIMINAL CODE — INCHOATE OFFENSES

Inchoate Offenses

26. **Criminal attempt.** A person who intentionally engages in conduct that constitutes a substantial step toward the commission of a class 4 felony commits a class 5 felony. 18-2-101 (4)
27. **Criminal conspiracy.** A person who agrees with another person to engage in conduct that constitutes a class 4 felony or an attempt to commit a class 4 felony, with the intent to facilitate or promote the commission of such a crime, or agrees to aid another person in planning or committing the crime or attempting to commit the crime, commits a class 5 felony. 18-2-206 (1)
28. **Criminal solicitation.** A person who attempts to persuade another person to commit a class 4 felony commits a class 5 felony. 18-2-301 (5)

CRIMINAL CODE — OFFENSES AGAINST THE PERSON

Homicide and Related Offenses

29. **Criminally negligent homicide.** A person who causes the death of another person by conduct amounting to criminal negligence commits a class 5 felony. 18-3-105

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Assaults

30. **Assault in the first degree.** If assault in the first degree is committed in the heat of passion caused by a highly provoking act of the victim, affecting the person causing the injury sufficiently to excite an irresistible passion in a reasonable person, and without an interval between the provocation and the injury sufficient for the voice of reason and humanity to be heard, it is a class 5 felony. 18-3-202 (2) (a)
31. **Vehicular assault.** A person who drives a motor vehicle in a reckless manner, and this conduct is the proximate cause of the serious bodily injury to another, commits a class 5 felony. 18-3-205 (1) (c)
32. **Menacing.** A person who menaces another by use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon, or who represents verbally or otherwise that he or she is armed with a deadly weapon, commits a class 5 felony. 18-3-206 (1)

Kidnapping

33. **False imprisonment.** Any person other than a peace officer acting within the scope of his or her duties who uses or threatens force to confine or detain another, and who confines or detains the person for 12 hours or longer commits a class 5 felony. 18-3-303 (2)
34. **Violation of custody order.** A person who takes or entices any child under the age of 18 from the custody of his or her parents, guardian, legal custodian, or person with parental responsibilities with respect to the child commits a class 5 felony. 18-3-304 (1)
- A parent who violates an order of court granting custody of a child or parental responsibilities with respect to a child under 18 to any person, agency, or institution, with the intent to deprive the lawful custodian or person with parental responsibilities of the custody or care of the child, commits a class 5 felony. 18-3-304 (2)
35. **Internet luring of a child.** A person who knowingly communicates over a computer or computer network, telephone network, or data network or by text message or instant message to a person who the actor knows or believes to be under the age of 15 and, in that communication or in any subsequent communication, describes explicit sexual conduct and makes a statement persuading or inviting the person to meet the actor (who is more than four years older than the other person or than the age the actor believes the other person to be) commits a class 5 felony. 18-3-306 (3)

Unlawful Sexual Behavior

36. **Failure to register as a sex offender.** A second or subsequent offense of failure to register as a felony sex offender is a class 5 felony. 18-3-412.5 (2) (a)

Stalking

37. **Stalking.** A person commits the class 5 felony of stalking if he or she knowingly makes a credible threat to another person (or causes that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship serious emotional distress) that involves repeatedly following, approaching, contacting, placing under surveillance, or making any form of communication that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship. 18-3-602 (3) (a)

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Offenses Against Pregnant Women

38. ***Unlawful termination of pregnancy in the second degree.*** A person who knowingly causes the unlawful termination of the pregnancy of a woman commits unlawful termination of pregnancy in the second degree, which is a class 5 felony if the act was performed in the sudden heat of passion, caused by a serious and highly provoking act of the intended victim, affecting the offender sufficiently to excite an irresistible passion in a reasonable person and without an interval for the voice of reason or humility to be heard. 18-3.5-104 (2)
39. ***Unlawful termination of pregnancy in the third degree.*** A person who, under circumstances manifesting extreme indifference to the value of human life, knowingly engages in conduct that creates a grave risk of death to another person, and thereby causes the unlawful termination of the pregnancy of a woman, commits unlawful termination of pregnancy in the third degree, a class 5 felony. 18-3.5-105 (2)
40. ***Unlawful termination of pregnancy in the fourth degree.*** A person who recklessly causes the unlawful termination of a pregnancy of a woman and who knew or reasonably should have known that the woman was pregnant commits unlawful termination of pregnancy in the fourth degree. Unlawful termination of pregnancy in the fourth degree is a class 5 felony if the pregnancy of the woman, other than a participant in the crime, is unlawfully terminated during the commission or attempted commission of or flight from the commission or attempted commission of murder, assault in the first or second degree, robbery, arson, burglary, escape, kidnapping in the first degree, sexual assault, sexual assault in the first or second degree as those offenses existed prior to July 1, 2000, or class 3 felony sexual assault on a child, provided that the offender is a principal in the criminal act or attempted criminal act. 18-3.5-106 (2)
41. ***Vehicular unlawful termination of pregnancy.*** A person who operates or drives a motor vehicle in a reckless manner and whose conduct is the proximate cause of the unlawful termination of the pregnancy of a woman commits vehicular unlawful termination of a pregnancy, a class 5 felony. 18-3.5-107 (2)

CRIMINAL CODE — OFFENSES AGAINST PROPERTY

Burglary and Related Offenses

42. ***Third degree burglary.*** A person who enters or breaks into any vault, safe, cash register, coin vending machine, product dispenser, money depository, safety deposit box, coin telephone, coin box, etc., commits a class 5 felony. 18-4-204 (2)
43. ***Possession of burglary tools.*** Possession of any explosive, tool, instrument, or other article adapted, designed, or commonly used for committing or facilitating burglary is a class 5 felony. 18-4-205 (2)

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Theft

44. **Theft.** A person commits theft if he or she knowingly obtains, retains, or exercises control over anything of value belonging to another without authorization, or by threat or deception, or receives, loans money on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen and: a) intends to deprive the other person permanently of the use or benefit of the thing of value; b) knowingly uses, conceals, or abandons the thing of value in such a manner as to deprive the owner permanently of its use or benefit; c) uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the owner permanently of its use or benefit; or d) demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the owner; or e) knowingly retains the thing of value for more than 72 hours after the agreed-upon time of return in any lease or hire agreement. It is also theft to:
- be a manufacturer, dealer, or lessor who engages in conduct to delay making a final repair that is required as a consequence of the enforcement of warranties or duties under the Warranties for Assistive Technology Act of the Colorado Consumer Protection Act with the intention of requiring payment of the cost of such repair to be made by a publicly funded program of public assistance, medical assistance, or rehabilitation assistance; 6-1-409
 - be a manufacturer, dealer, or lessor who engages in conduct to delay making a final repair that is required as a consequence of the enforcement of warranties or duties under the Warranties for Facilitative Technology Act under the Colorado Consumer Protection Act with the intention of requiring payment of the cost of such repair to be made by a publicly funded program of public assistance, medical assistance, or rehabilitation assistance; 6-1-508
 - violate the trust fund provisions of law regarding preneed funeral contracts or any other misappropriation of funds; 10-15-118 (1)
 - willfully convert to his or her own use or benefit the farm products of another; 12-16-115 (1) (f)
 - if licensed as a dealer or small-volume dealer, sell farm products for less than the current market price to any person with whom such dealer has any financial connection or to sell farm products out of the purchase price of which the dealer receives any portion thereof other than the lawfully allowed commission; 12-16-115 (1) (j)
 - purchase farm products in the state and move the products to another state and issue a check in payment for those products knowing that there are insufficient funds to pay for the products; 12-16-118 (2)
 - willfully convert to his or her own use or benefit the commodities of another; 12-16-221 (1) (f)
 - sell commodities for less than the current market price to any person with whom one has any direct or indirect financial connection; 12-16-221 (1) (k)
 - sell commodities out of the purchase price of which one receives any portion thereof other than the lawfully allowed commission; 12-16-221 (1) (k)
 - exercise undue influence to convert or take possession of an at-risk elder's money, assets, or other property; 18-6.5-103 (7.5)

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- knowingly obtain any telecommunications service by charging such service to or causing such service to be charged to a stolen or fraudulent telephone number, access device, or credit card number, or by any method of code calling, or by installing, rearranging, or tampering with any equipment, physically or electronically, or by the use of any other fraudulent means, method, trick, device, or scheme; 18-9-309 (3) (a)
 - obtain telecommunications services with fraudulent intent through the use of a false name, telephone number, address, or credit card number or through the unauthorized use of the name, telephone number, address, or credit card information of another; 18-9-309 (3) (b)
 - obtain or willfully aid or abet another, by means of a willfully false statement, representation, impersonation, or other fraudulent device, to obtain public assistance or vendor payments or medical assistance to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled; 26-1-127 (1)
 - obtain or willfully aid or abet another, by means of a willfully false statement, representation, impersonation, or other fraudulent device, to obtain food stamp coupons or authorization to purchase cards or an electronic benefits transfer card or similar device for delivering food stamp benefits to which the person is not entitled, or in a value greater than that to which the person is entitled; 26-2-305 (1)
 - file a fraudulent or false claim for a refund from the Colorado Beef Council Authority, or by any false pretense obtain or obtain a refund not legally due the actor, or sign a refund claim in the name of and for another person; 35-57-119 (4)
 - fail to pay or remit to the Colorado Sheep and Wool Authority an assessment for licensing or to knowingly falsify any document furnished in connection with such a payment or remission; 35-57.5-119 (5)
 - file a fraudulent or false claim for a refund from the Colorado Horse Development Authority, or by any false pretense obtain or obtain a refund not legally due the actor, or sign a refund claim in the name of and for another person; 35-57.8-111 (4)
 - violate the trust funds provisions of law regarding lien claims to property by subcontractors, laborers, or material providers; 38-22-127 (5)
 - remove property covered by a lien on a well or equipment when the lien has been filed; 38-24-108
 - violate the trust funds provisions of law regarding verified claims to property by subcontractors, laborers, or material providers; 38-26-109 (4)
 - misappropriate funds held in escrow or a trustee account; 38-40-101 (4)
 - as a unit operator or first purchaser, collect but fail to remit the tax from the fractional interest owners pursuant to the property tax collection article. 39-10-106 (4) (b) (III)
- Theft is a class 5 felony if the value of the thing involved is \$5,000 or more but less than \$20,000. 18-4-401 (2) (g)
- Theft is a class 5 felony, regardless of the value of the thing taken, if the thing involved was taken from another person by means other than the use of force, threat, or intimidation. 18-4-401 (5)

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45. ***Theft of trade secrets.*** Any person who steals or discloses to an unauthorized person a trade secret or makes or causes to be made a copy of an article representing a trade secret commits theft of a trade secret. A second or subsequent offense within five years of a prior offense is a class 5 felony. 18-4-408 (3)
46. ***Aggravated motor vehicle theft.*** A person who obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and the value of the motor vehicle or vehicles involved is more than \$20,000 commits a class 5 felony. 18-4-409 (4)

Trespass, Tampering, and Criminal Mischief

47. ***First degree criminal trespass.*** A person who knowingly and unlawfully enters a building or enters a car with intent to commit a crime therein commits a class 5 felony. 18-4-502
48. ***Third degree criminal trespass.*** It is a class 5 felony if a person unlawfully enters or remains on premises classified as agricultural land with the intent to commit a felony. 18-4-504 (2) (b)

CRIMINAL CODE — OFFENSES INVOLVING FRAUD

Forgery, Simulation, Impersonation, and Related Offenses

49. ***Forgery.*** A person commits the class 5 felony of forgery if, with the intent to defraud, he or she falsely makes, completes, or alters a written instrument listed in section 18-5-102 (1) (a) through (1) (g). 18-5-102 (2)
50. ***Offering a false instrument for recording.*** An individual who offers for recording with the intent to defraud a false written instrument relating to or affecting real or personal property or directly affecting contractual relationships commits a class 5 felony. 18-5-114 (2)

Fraud in Obtaining Property or Services

51. ***Defrauding a secured creditor or debtor.*** Defrauding a secured creditor or debtor is a class 5 felony if the value of the collateral or the amount owed is at least \$1,000, but less than \$20,000. 18-5-206 (1) (c) and (2) (c)

Fraudulent and Deceptive Sales and Business Practices

52. ***Unlawful activity concerning the selling of land.*** A person who sells the same land twice with intent to defraud commits a class 5 felony. 18-5-302 (1)

Offenses Relating to the Uniform Commercial Code

53. ***Failure to pay over assigned accounts.*** Failure to pay over assigned accounts where the amount of such proceeds withheld is at least \$1,000 is a class 5 felony. 18-5-502
54. ***Concealment or removal of secured property.*** Concealment or removal of secured property where the value of the property concealed or removed is at least \$1,000 is a class 5 felony. 18-5-504

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55. ***Failure to pay over proceeds.*** Failure to pay over proceeds of security interest in personal property where the amount of the proceeds withheld is at least \$1,000 is a class 5 felony. 18-5-505

Financial Transaction Device Crime Act

56. ***Unauthorized use of a financial device.*** Unauthorized use of a financial device if the value of cash, credit, property, or services obtained or financial payments made exceeds \$1,000 but is less than \$20,000 is a class 5 felony. 18-5-702 (3) (c)
57. ***Criminal possession of a blank financial transaction device.*** Any person who possesses two or more blank financial transaction devices and who intends to use, deliver, circulate, or sell them without the authorization of the issuer or manufacturer commits a class 5 felony. 18-5-705 (3)
- Any person who delivers, circulates, or sells one blank financial transaction device which has not been embossed or magnetically encoded with the name of the account holder, personal identification code, expiration date, or other proprietary institutional information commits a class 5 felony. 18-5-705 (4)
58. ***Unlawful manufacture of a financial transaction device.*** A person commits a class 5 felony if he or she commits unlawful manufacture of a financial transaction device, with intent to defraud, by: a) falsely making or manufacturing such a device; b) falsely altering or adding codes or information to such a device; or c) falsely completing such a device. 18-5-707 (3)

Equity Skimming and Related Offenses

59. ***Equity skimming of real property.*** A person commits the class 5 felony of equity skimming of real property if he or she acquires an interest in real property that is encumbered by a loan and the loan is in arrears; and either: a) fails to apply all rent derived from the property first toward the satisfaction of all outstanding payments due on the loan and second toward any homeowner's association dues or fees; or b) after a foreclosure, collects rent on behalf of any person other than the owner of the property. 18-5-802 (3)

Identity Theft and Related Offenses

60. ***Criminal possession of a financial device.*** Criminal possession of a financial device is a class 5 felony if it involves the possession or control of four or more lost or stolen financial devices, at least two of which are issued to different account holders. 18-5-903 (2) (c)
61. ***Gathering identity information by deception.*** A person commits the class 5 felony of gathering information by deception if he or she makes or conveys a false statement, without permission or lawful authority, with the intent to obtain, record, or access the personal identifying information or financial identifying information of another. 18-5-904 (2)
62. ***Possession of identity theft tools.*** A person commits the class 5 felony of possession of identity theft tools if he or she possesses any tools, equipment, computer, computer network, scanner, printer, or other article adapted, designed, or commonly used for committing or facilitating the commission of identity theft with the intent to use the tools to commit identity theft. 18-5-905 (2)

**CRIMINAL CODE —
OFFENSES INVOLVING THE FAMILY RELATIONS**

Wrongs to Children

63. **Child abuse.** A second or subsequent offense of child abuse where no death or serious bodily injury occurred is a class 5 felony if the new offense involved any of the following acts: a) the defendant, who was in a position of trust with respect to the child, participated in a continued pattern of conduct resulting the child's malnourishment or failed to ensure the child's access to proper medical care; b) the defendant participated in a continued pattern of cruel punishment or unreasonable isolation or confinement of the child; c) the defendant made repeated threats of harm or death in the presence of the child to the child or to a significant person in the child's life; d) the defendant committed a continued pattern of acts of domestic violence in the presence of the child; or e) the defendant participated in a continued pattern of extreme deprivation of hygienic or sanitary conditions in the child's daily living environment. 18-6-401 (7) (e)

Domestic Violence

64. **Domestic violence - sentencing.** Any person convicted of any offense which would otherwise be a misdemeanor, the underlying factual basis of which includes an act of domestic violence and such person has been three times previously convicted of a felony or misdemeanor or municipal ordinance violation, the underlying factual basis of which included an act of domestic violence, shall be convicted of a class 5 felony. 18-6-801 (7)

**CRIMINAL CODE —
WRONGS TO AT-RISK ADULTS AND AT-RISK JUVENILES**

Crimes Against At-risk Adults and At-risk Juveniles

65. **Criminal negligence.** Any person whose conducts amounts to criminal negligence when the negligence results in serious bodily injury to an at-risk adult or at-risk juvenile commits a class 5 felony. 18-6.5-103 (2) (b)
66. **Assault.** Assault in the second degree, as described in section 18-3-203, when the victim is an at-risk adult or at-risk juvenile and the act was committed upon a sudden heat of passion, caused by a serious and highly provoking act of the victim, causing an irresistible passion in a reasonable person, is a class 5 felony. 18-6.5-103 (3) (b)
67. **Theft from at-risk adults or at-risk juveniles.** Any person who commits theft, as described in section 18-4-401, and commits any element of the offense in the presence of the victim when the victim is an at-risk adult or at-risk juvenile, or who is in a position of trust with regard to the at-risk adult or at-risk juvenile, regardless of whether the act took place in the presence of the victim, commits a class 5 felony when the value of the thing involved is less than \$500. 18-6.5-103 (5)

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68. ***Theft from at-risk elders.*** Any person who commits theft, as described in section 18-4-401, and commits any element of the offense in the presence of the victim when the victim is an at-risk elder, or who commits theft against an at-risk elder knowing that the victim is an at-risk elder, regardless of whether the act took place in the presence of the victim, commits a class 5 felony when the value of the thing involved is less than \$500. 18-6.5-103 (5.5)

CRIMINAL CODE — OFFENSES RELATING TO MORALS

Prostitution

69. ***Prostitution with knowledge of being infected with AIDS.*** Prostitution with knowledge of being infected with AIDS is a class 5 felony. 18-7-201.7 (2)
70. ***Pandering.*** Any person who, for money or other thing of value, induces another person by menacing or criminal intimidation to commit prostitution commits a class 5 felony. 18-7-203 (2)

Sexually Explicit Materials Harmful to Children

71. ***Sexual conduct in penal institutions.*** Sexual conduct in a correctional institution is a class 5 felony if the conduct includes sexual intrusion or penetration and is committed by an employee, contractor, or any individual who performs work functions in a correctional facility or for the Department of Corrections, Department of Human Services, or for a community corrections program. 18-7-701 (3)

CRIMINAL CODE — GOVERNMENTAL OPERATIONS

Obstruction of Public Justice

72. ***Accessory to crime.*** Being an accessory to crime is a class 5 felony if the offender knows that the person being assisted is suspected of committing a class 1 or class 2 felony. 18-8-105 (4)
- Being an accessory to crime is a class 5 felony if the offender knows that the person being assisted has committed, or has been convicted of, a felony other than a class 1 or class 2 felony. 18-8-105 (5)
73. ***Disarming a peace officer.*** It is a class 5 felony to knowingly, without justification and without consent, remove the firearm of a peace officer who is acting under color of official authority. 18-8-116 (2)

Escape and Offenses Relating to Custody

74. ***Aiding escape from mental hospital.*** Any person who aids the escape of any inmate from an institution for the care and treatment of persons with mental illness knowing the person was committed pursuant to the criminal insanity statute commits a class 5 felony. 18-8-201.1

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75. **Escape.** Escape while confined pursuant to the criminal insanity statute (Article 8 of Title 16) if the person was charged with a felony at the proceeding in which he or she was committed is a class 5 felony if the person travels outside the state of Colorado.
- Escape is a class 5 felony if the person was in custody or confinement pursuant to the "Uniform Extradition Act."
76. **Attempt to escape.** Attempt to escape is a class 5 felony if the person was serving a direct sentence to a community corrections facility or was placed in an intensive supervision parole program following a felony conviction.
- A person who, while in custody or confinement and held for or charged with but not convicted of a felony, attempts to escape commits a class 5 felony.
77. **Persons in custody or confinement for unclassified offenses.** A person who violates section 18-8-201 (aiding escape), section 18-8-206 (assault during escape), or section 18-8-208 (escape) while in custody or confined for a felony offense which is unclassified or which was not classified at the time the custody or confinement began is deemed to have been in custody or confinement for a class 5 felony.
78. **Riots in detention facilities.** A person confined in any correctional institution commits a class 5 felony if, during a riot, he or she intentionally disobeys an order to move, disperse, or refrain from specified activities.
79. **Unauthorized residency by parolee or probationer from another state.** A probationer or parolee from another state who, in order to stay in the state, is required to have permission of the administrator of the Interstate Compact for Adult Offender Supervision, and does not receive such approval, commits a class 5 felony.

Abuse of Public Office

80. **Embezzlement of public property.** A class 5 felony is committed when a public servant converts public moneys or properties to personal use or to any use other than the public use as authorized by law.

Offenses Relating to Judicial and Other Proceedings

81. **Jury tampering.** Knowing participation in the fraudulent processing or selection of jurors or prospective jurors or attempting to communicate with or influence jurors other than as a part of the official trial proceedings is a class 5 felony.

CRIMINAL CODE — OFFENSES AGAINST PUBLIC PEACE, ORDER, AND DECENCY

Public Peace and Order

82. **Inciting riot.** Any person who incites, urges, instructs, or signals a group of five or more persons to engage in a riot and injury to a person or damage to property results commits a class 5 felony.

Elements of Offense

C.R.S. Citation

83. ***Vehicular eluding.*** Any person who, while operating a motor vehicle, knowingly eludes or attempts to elude a peace officer also operating a motor vehicle, and who operates the vehicle in a reckless manner, commits a class 5 felony when no bodily injury or death occurs. 18-9-116.5 (2) (a)
84. ***Failure to leave premises on request of peace officer.*** Any person who barricades or refuses police entry to any premises through use or threat of force and fails to leave upon request by a peace officer outside the structure, and holds a hostage by feigning possession of a deadly weapon commits a class 5 felony. 18-9-119 (7)
85. ***Terrorist training activities.*** Any person who teaches, demonstrates, practices with, or is instructed in the use, application, or making of firearms, explosive or incendiary devices, or techniques capable of causing injury or death and who knows that the same will be used in the furtherance of a civil disorder commits a class 5 felony. 18-9-120 (2)
86. ***Bias-motivated crimes.*** Knowingly causing bodily injury to another person because of that person's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, or sexual orientation, constitutes a class 5 felony. 18-9-121 (3)

Cruelty to Animals

87. ***Cruelty to animals.*** A second or subsequent conviction of aggravated cruelty to animals (knowing torture, torment, needless mutilation, or killing) is a class 5 felony. 18-9-202 (2) (c)
88. ***Animal fighting - penalty.*** Any person who causes, sponsors, arranges, or encourages a fight between animals for monetary gain or entertainment commits a class 5 felony. 18-9-204 (2)
89. ***Unlawful ownership of dangerous dog.*** Any person who owns a dangerous dog when the dog causes the death of a person commits a class 5 felony. 18-9-204.5 (3) (d)

Offenses Involving Communications

90. ***Wiretapping and eavesdropping devices prohibited.*** Any person who possesses instruments or devices for wiretapping or eavesdropping with intent to unlawfully use or employ such devices or who knowingly aids another person in unlawfully manufacturing, buying, selling, or possessing such a device commits a class 5 felony upon a second or subsequent offense. 18-9-302

CRIMINAL CODE — GAMBLING

Gambling

91. ***Professional gambling.*** A person who engages in professional gambling and is a repeated gambling offender commits a class 5 felony. 18-10-103 (2)

Elements of Offense

C.R.S. Citation

**CRIMINAL CODE —
OFFENSES INVOLVING DISLOYALTY**

Treason and Related Offenses

92. ***Insurrection.*** Any person who intentionally, by force, resists the execution of state law or engages or participates with any armed force to invade the state, commits the class 5 felony of insurrection. 18-11-102 (2)

Anarchy — Sedition

93. ***Advocating overthrow of government.*** Any person who advocates for the destruction or overthrow of the government of the United States or of Colorado by violent force or action commits sedition, which is a class 5 felony. 18-11-201 (2)
94. ***Membership in anarchistic and seditious associations.*** Any person who is a member of an unlawful organization which advocates violent and forceful change in the state of Colorado or in the United States commits a class 5 felony. 18-11-203 (2)

**CRIMINAL CODE —
OFFENSES RELATING TO FIREARMS AND WEAPONS**

Firearms and Weapons

95. ***Possessing a dangerous or illegal weapon.*** A person who knowingly possesses a dangerous weapon (firearm silencer, machine gun, short shotgun, short rifle, or ballistic knife) commits a class 5 felony. 18-12-102 (3)
96. ***Use of stun guns.*** The use of a stun gun in the commission of a criminal offense is a class 5 felony. 18-12-106.5
97. ***Second offense.*** Any person who has within five years previously been convicted of possessing an illegal weapon, possessing a defaced firearm, unlawfully carrying a concealed weapon, or using a weapon in a prohibited manner, shall upon conviction for a second or subsequent offense be guilty of a class 5 felony. 18-12-107
98. ***Illegal discharge of a firearm.*** Any person who knowingly or recklessly discharges a firearm into any dwelling or other building, occupied structure, or occupied motor vehicle commits a class 5 felony. 18-12-107.5 (3)
99. ***Possession of weapons by previous offenders.*** Possession of a weapon by a previous offender is a class 5 felony when the weapon is a dangerous weapon. 18-12-108 (2) (b) and (4) (b)
- Possession of a weapon by a previous offender is a class 5 felony when the previous conviction was for burglary, arson, or any felony involving the use of force or a deadly weapon. 18-12-108 (2) (c) and (4) (c)
100. ***Possession of handguns by juveniles.*** A second or subsequent offense of possession of a handgun by juveniles is a class 5 felony. 18-12-108.5 (1) (c) (II)

Elements of Offense

C.R.S. Citation

101. ***Explosives or incendiary devices - chemical, biological, or radiological weapons.*** Any person who manufactures or possesses or who gives, mails, or sends any false, facsimile, or hoax explosive or incendiary device or chemical, biological, or radiological weapon to another person or places any such purported device or weapon on real or personal property commits a class 5 felony 18-12-109 (7)

**CRIMINAL CODE —
MISCELLANEOUS OFFENSES**

Miscellaneous Offenses

102. ***Violation concerning sale of secondhand property.*** Any dealer in secondhand property who fails to maintain proper records of sales or to deliver such records to local law enforcement agencies commits a class 5 felony if it is a second or subsequent offense within a three-year period. 18-13-114 (6) (a)

**CRIMINAL CODE —
MAKING, FINANCING, OR COLLECTION OF LOANS**

Offenses — Making, Financing, or Collection of Loans

103. ***Financing extortionate extensions of credit.*** Any person advancing money or property to another whom he or she reasonably suspects will use such money or property for the purpose of making an extortionate extension of credit commits a class 5 felony. 18-15-105

**CRIMINAL CODE —
OFFENSES RELATED TO LIMITED GAMING**

Offenses Related to Limited Gaming

104. ***Violation of taxation provisions.*** Any person who makes any false or fraudulent return in attempting to defeat or evade taxes imposed by the Colorado Limited Gaming Act commits a class 5 felony. 18-20-103 (1) (a)
- A second or subsequent offense of failure to pay tax or file a return pursuant to the Colorado Limited Gaming Act within a 12-month period is a class 5 felony. 18-20-103 (1) (d)
- Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation of a return, affidavit, claim, or other document which is fraudulent or false pursuant to the Colorado Limited Gaming Act commits a class 5 felony. 18-20-103 (1) (e)
105. ***False statement on application.*** Any person who knowingly makes a false statement in any application for a license or who provides false or misleading information or who fails to keep books and records to substantiate receipts or expenses or who falsifies any books or records related to any transaction connected with limited card games or slot machines or who knowingly violates any of the provisions of or rules and regulations promulgated pursuant to the Colorado Limited Gaming Act commits a class 5 felony. 18-20-104

<u>Elements of Offense</u>	<u>C.R.S. Citation</u>
106. Slot machines. Any violation of the provisions of law concerning the requirements for shipping notices of slot machines commits a class 5 felony.	18-20-105 (1)
107. Cheating. Cheating at any limited gaming activity when the offender is a repeat gambling offender is a class 5 felony.	18-20-106 (3)
108. Fraudulent acts - gaming. Violation of any of the provisions of section 18-20-107 regarding fraudulent acts pursuant to the Colorado Limited Gaming Act is a class 5 felony when the offender is a repeat gambling offender.	18-20-107 (2)
109. Use of device for calculating probabilities. Any person who uses or possesses a device intended to project the outcome of a game, keep track of cards played, analyze the probability of the occurrence of an event in the game, or analyze the strategy for playing a game pursuant to the Colorado Limited Gaming Act commits a class 5 felony when the offender is a repeat gambling offender.	18-20-108 (2)
110. Counterfeit or unapproved chips or tokens - unlawful coins or devices. Violation of any of the provisions of section 18-20-109 regarding the use of counterfeit or unapproved chips or tokens or unlawful coins or devices or the possession of unlawful devices, equipment, products or materials pursuant to the Colorado Limited Gaming Act is a class 5 felony when the offender is a repeat gambling offender.	18-20-109 (8)
111. Cheating game and devices. Any person who knowingly conducts or allows any cheating or thieving game or conducts any game played with cards or a mechanical device which has been marked commits a class 5 felony when the offender is a repeat gambling offender.	18-20-110 (2)
112. Unlawful manufacture, sale, distribution, marking, altering, or modification of equipment and devices associated with limited gaming. Any person who manufactures, sells, or distributes any cards, chips, dice, game, or device that is intended to be used to violate any provision of the Colorado Limited Gaming Act, or who marks, alters, or otherwise modifies equipment related to limited gaming in a manner that affects the results of a wager or alters the normal criteria of random selection, commits a class 5 felony if the person is a repeat gambling offender.	18-20-111 (4)
113. Unlawful entry by excluded and ejected persons. Any person who enters the licensed premises of a limited gaming licensee or who has any personal pecuniary interest in any limited gaming establishment when that person's name is on the list of persons who are to be excluded and ejected from such premises commits a class 5 felony.	18-20-112 (3)
114. False or misleading information. Any person who provides any false or misleading information pursuant to the Colorado Limited Gaming Act commits a class 5 felony.	18-20-114 (2)

STATE GOVERNMENT

Offenses Related to State History, Archives, and Emblems

115. Punishment for illegal use of state emblems and symbols. Illegal use of the seal of the state of Colorado is a class 5 felony.	24-80-902
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Elements of Offense

C.R.S. Citation

HEALTH

Offenses Related to Administration

116. **Department of Public Health - penalties.** An attempt or threat to tamper with a public water system or with drinking water after its withdrawal for or treatment by a public water system is a class 5 felony. 25-1-114 (5) (b) (II)

Waste Diversion and Recycling

117. **Waste tire fees.** Any person who fails to comply with the provisions of section 25-17-202 related to the collection and payment of waste tire fees by willfully failing to collect or pay the tax commits a class 5 felony. 25-17-202 (2) (c); 39-21-118 (2)

LOCAL GOVERNMENT

Offenses Related to Hazardous Substance Incidents

118. **Hazardous substance incidents.** Any person who willfully, recklessly, or with criminal negligence causes or substantially contributes to the occurrence of a hazardous substance incident commits a class 5 felony. 29-22-108 (2)

MUNICIPAL GOVERNMENT

Offenses Related to Powers and Functions of Cities and Towns

119. **False statement.** A person who, for the purpose of obtaining any order, benefit, award, compensation, or payment related to a fire or police pension plan, makes a false statement or representation material the benefit claim commits a class 5 felony. 31-31-1203

PARKS AND WILDLIFE

Law Enforcement and Penalties - Wildlife

120. **Illegal sale of wildlife.** Any person who sells or purchase or offers for sale or purchase any big game, endangered species, or eagles, or who solicits another person in the illegal taking of such wildlife for the purpose of monetary gain, commits a class 5 felony. 33-6-113 (2) (a)
121. **Willful destruction of wildlife.** Any person who hunts or takes, or solicits another person to hunt or take, any big game, eagles and endangered species and removes, with the intent to abandon the carcass or body, only the head, hide, claws, teeth, antlers, horns, internal organs, or feathers or any or all of such parts commits a class 5 felony. 33-6-117 (1) (a)

Elements of Offense

C.R.S. Citation

AGRICULTURE

Offenses Related to Livestock

122. ***Selling livestock without bill of sale - theft.*** Any person who sells livestock that does not carry the seller's brand, or for which the person has no bill of sale or power of attorney, commits a class 5 felony (see section 18-4-401 (5)). 35-54-105 (1)

REAL AND PERSONAL PROPERTY

Offenses Related to Liens

123. ***Penalty for removing property covered by a lien on a well or equipment.*** Any person who removed property covered by a lien on a well or equipment when the lien has been filed commits a class 5 felony (see section 18-4-401(5)). 38-24-108

TAXATION

Procedure and Administration

124. ***Criminal Penalties.*** It is a class 5 felony to willfully attempt to evade or defeat any tax administered. 39-21-118 (1)
- It is a class 5 felony to fail to collect or account for or pay such tax. Willfully making a materially false statement in connection with an application for a tax refund is included in this offense. 39-21-118 (2)
- It is a class 5 felony to willfully make or subscribe a return, statement, or document that is not true or not correct as to every material matter. 39-21-118 (4)
- It is a class 5 felony to willfully aid or assist in the fraudulent or false giving of information. 39-21-118 (5)

Income Tax

125. ***Income tax violations.*** Any person who is required to make a return, keep any records, or supply any information for the purpose of computation, assessment, or collection of income taxes and who willfully fails to do so commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-22-621 (3) (a)
- Any person who is required by law to collect, account for, and pay over any income tax and who willfully fails to collect or truthfully account for any pay over such tax, and any person who willfully fails to pay any income tax, or in any manner evades or defeats any income tax, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-22-621 (3) (b)

Elements of Offense

C.R.S. Citation

126. **State sales tax refund.** Any person who claims but is not eligible to claim a state sales tax refund commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-22-2003 (7)

Colorado Estate Tax

127. **Criminal acts relating to estate tax returns.** Any person who willfully fails to file an estate tax return when required to do so, or who willfully files a false estate tax return, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-23.5-113

Sales and Use Tax

128. **Penalties for false or fraudulent returns.** Any retailer or vendor who willfully refuses to make any required sales and use tax return or who makes any false or fraudulent return or false statement on any return, or who fails and refuses to make payment on any taxes collected or due to the state, or in any manner evades the collection and payment of the tax, commits a class 5 felony. It is also a class 5 felony for any person or purchaser to fail or refuse to pay the sales and use tax, to evade the payment of the tax, or to aid or abet another in any attempt to evade the payment of the tax. It is also a class 5 felony for any corporation to willfully make a false return or a return willfully containing a false statement. 39-26-120 (2)
39-26-121
129. **Failure to make periodic returns.** Any person who willfully fails or refuses to make the return required by section 39-26-204, or who makes a false or fraudulent return, or who willfully fails to pay any tax owed, or who aids or abets another in an attempt to evade the tax, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-26-206

Gasoline and Special Fuel Tax

130. **Violation of the statute governing gasoline tax permits and refunds.** Any person who willfully makes any false statement in connection with an application for a permit or an application for a refund, or who uses the gasoline or special fuel other than as stated in the permit and application, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-27-103 (4)
131. **Distributor trustee of tax.** Any distributor who willfully fails or refuses upon demand to pay over the moneys paid as gasoline taxes that are declared to be trust funds or who fraudulently withholds, converts to his or her own use, or appropriates or otherwise uses such moneys commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 39-27-106

Elements of Offense

C.R.S. Citation

132. ***Penalty for failure to report or pay gasoline tax.*** Any person who willfully fails or refuses to make the report or payment of tax due by law, for which no penalty is expressly provided, and any person who willfully makes any false report or statement as to the amount of gasoline or special fuel acquired, sold, or used or any false statement relative to the kind or character and the amount of the gasoline or special fuel received by such person and required to be reported, with intent to evade the payment of the gasoline tax, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.

Cigarette Tax

133. ***Penalties related to cigarette taxes.*** Any person, firm, limited liability company, partnership, or corporation or agent thereof who at retail sells or offers for sale, displays for sale, or possesses with the intent to sell any cigarettes when the package does not bear the stamp, imprint, or impression evidencing the payment of cigarette taxes commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.
134. ***Prohibited acts related to cigarette taxes.*** Any wholesaler who sells and distributes any cigarettes in the state without a license or without first affixing the stamp, imprint, or impression upon each package as required by law, or who willfully makes any false or fraudulent return, or false statement on any return, or who willfully evades the payment of the cigarette tax, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.

Tax on Tobacco Products

135. ***Prohibited acts related to tobacco taxes.*** Any distributor who willfully sells and distributes any tobacco products in the state without a license, or who willfully makes any false or fraudulent return or false statement on any return, or who willfully evades the payment of the tobacco tax, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.

Taxes on Marijuana and Marijuana Products

136. ***Prohibited acts related to marijuana taxes.*** Any retail marijuana cultivation facility or agent thereof who sells or transfers retail marijuana without a license, or who willfully makes any false or fraudulent return or false statement on any return, or who willfully evades the payment of the retail marijuana excise tax commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case.

Elements of Offense

C.R.S. Citation

VEHICLES AND TRAFFIC

Fees and Cash Funds

137. **Violations related to passenger-mile taxes.** Any person who willfully fails or refuses to make the passenger-mile tax report required by law, or who makes a false or fraudulent return, or who willfully fails to pay any tax owed, commits a crime that must be punished in accordance with section 39-21-118. Such crimes are classified as either a class 5 felony or an unclassified misdemeanor, depending on the specific facts and circumstances of the case. 42-3-308 (3) (b)

Automobile Theft Law

138. **Stolen motor vehicle parts.** Any person who buys, sells, exchanges, or alters the appearance of a motor vehicle or motor vehicle part that is the property of another, or any person who aids in the commission of any such act and who knows or should know that such motor vehicle or motor vehicle part is stolen property, commits a class 5 felony. 42-5-102 (1)
- Any person who, except as needed for legitimate repairs, intentionally removes, alters, or obliterates a motor vehicle identification number, manufacturer's number, or engine number or who knowingly possesses a motor vehicle or motor vehicle part containing a removed, altered, or obliterated vehicle identification number, manufacturer's number, or engine number commits a class 5 felony. 42-5-102 (2)
139. **Tampering with a motor vehicle.** Tampering with a motor vehicle is a class 5 felony if the damage is at least \$1,000, but less than \$20,000. 42-5-103 (2) (b)
140. **Theft of motor vehicle parts.** Theft of motor vehicle parts is a class 5 felony if the value of the thing involved is at least \$1,000, but less than \$20,000. 42-5-104 (2) (b)
- Theft of motor vehicle parts two or more times within a period of six months is a class 5 felony if the aggregate value of the things involved is at least \$1,000, but less than \$20,000. 42-5-104 (3)