

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 21-0531.01 Jacob Baus x2173

HOUSE BILL 21-1090

HOUSE SPONSORSHIP

Valdez A.,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CERTAIN CRIMINAL MARIJUANA OFFENSES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill eliminates the marijuana possession offense for possession of 2 ounces of marijuana or less.

The bill requires the court to seal a conviction record, without opportunity for the district attorney to object, for a marijuana possession offense that is otherwise not sealed, if the person files documents with the court that the person has not been convicted of a criminal offense since the final disposition of all criminal proceedings or release from supervision, whichever is later.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill allows a person who was convicted of a class 3 felony marijuana cultivation offense to petition to have his or her conviction record sealed.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-711, **amend**
3 (3)(c) as follows:

4 **18-1-711. Immunity for persons who suffer or report an**
5 **emergency drug or alcohol overdose event - definitions.** (3) The
6 immunity described in subsection (1) of this section applies to the
7 following criminal offenses:

8 (c) If committed on or after March 1, 2020, unlawful possession
9 of two ounces or less of marijuana, as described in section 18-18-406
10 (5)(a)(I) PRIOR TO ITS REPEAL IN 2021; or more than two ounces of
11 marijuana but not more than six ounces of marijuana or not more than
12 three ounces of marijuana concentrate, as described in section 18-18-406
13 (4)(c); or more than six ounces of marijuana or more than three ounces of
14 marijuana concentrate, as described in section 18-18-406 (4)(b);

15 **SECTION 2.** In Colorado Revised Statutes, 18-18-406, **amend**
16 (5)(b)(III); and **repeal** (5)(a) as follows:

17 **18-18-406. Offenses relating to marijuana and marijuana**
18 **concentrate - definitions.** (5) (a) ~~(f) Except as described in section~~
19 ~~18-1-711, a person who possesses not more than two ounces of marijuana~~
20 ~~commits a drug petty offense and, upon conviction thereof, shall be~~
21 ~~punished by a fine of not more than one hundred dollars.~~

22 ~~(H) Whenever a person is detained for a violation of subsection~~
23 ~~(5)(a)(I) of this section committed on or after March 1, 2020, the~~
24 ~~detaining officer shall prepare a written notice or summons for the person~~

1 to appear in court. The written notice or summons must contain the name
2 and address of the person; the date, time, and place where such person
3 shall appear; and a place for the signature of the person indicating the
4 person's written promise to appear on the date and at the time and place
5 indicated on the notice or summons. One copy of the notice or summons
6 must be given to the person, one copy must be sent to the court where the
7 person is to appear, and such other copies as may be required by the law
8 enforcement agency employing the officer must be sent to the places
9 designated by such law enforcement agency. The date specified in the
10 notice or summons to appear must be at least seven days after the
11 issuance of the notice or summons. The place specified in the notice or
12 summons to appear must be before a judge having jurisdiction of the drug
13 petty offense within the county in which the drug petty offense charged
14 is alleged to have been committed. If the person fails to appear in
15 response to the notice or summons, the court, in its discretion, may issue
16 a warrant for the arrest of the person or an order to show cause requiring
17 the person's appearance in court.

18 (b) (III) Except as otherwise provided for in subparagraph (I) of
19 this paragraph (b) SUBSECTION (5)(b)(I) OF THIS SECTION, consumption or
20 use of marijuana or marijuana concentrate is deemed possession thereof,
21 and violations must be punished as provided for in paragraph (a) of this
22 subsection (5) and subsection (4) of this section.

23 **SECTION 3.** In Colorado Revised Statutes, 18-19-103, **repeal** (2)
24 as follows:

25 **18-19-103. Source of revenues - allocation of money.** (2) Each
26 drug offender convicted of a violation of section 18-18-406 (5)(a)(I), or
27 who receives a deferred sentence pursuant to section 18-1.3-102 for a

1 violation of section 18-18-406 (5)(a)(I), shall be assessed a surcharge of
2 two hundred dollars.

3 **SECTION 4.** In Colorado Revised Statutes, 19-2-104, **amend**
4 (1)(a)(I) and (5) as follows:

5 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
6 the juvenile court has exclusive original jurisdiction in proceedings:

7 (a) Concerning any juvenile ten years of age or older who has
8 violated:

9 (I) Any federal or state law, except nonfelony state traffic, game
10 and fish, and parks and recreation laws or rules; the offense specified in
11 section 18-13-122, concerning the illegal possession or consumption of
12 ethyl alcohol or marijuana by an underage person or illegal possession of
13 marijuana paraphernalia by an underage person; the offenses specified in
14 section 18-18-406 ~~(5)(a)(I)~~, (5)(b)(I) and (5)(b)(II), concerning marijuana
15 and marijuana concentrate; and the civil infraction in section 18-7-109
16 (3), concerning exchange of a private image by a juvenile;

17 (5) Notwithstanding any other provision of this section to the
18 contrary, the juvenile court and the county court shall have concurrent
19 jurisdiction over a juvenile who is under eighteen years of age and who
20 is charged with a violation of section 18-13-122, 18-18-406 ~~(5)(a)(I)~~,
21 (5)(b)(I) and (5)(b)(II), 18-18-428, 18-18-429, 18-18-430, or 42-4-1301;
22 ~~C.R.S.~~; except that, if the juvenile court accepts jurisdiction over such a
23 juvenile, the county court jurisdiction shall terminate.

24 **SECTION 5.** In Colorado Revised Statutes, 24-72-706, **amend**
25 (1)(f)(I) and (2)(a)(VI)(J) as follows:

26 **24-72-706. Sealing of criminal conviction records.** (1) **Sealing**
27 **of conviction records.** (f) (I) If a motion is filed for the sealing of a petty

1 offense, ~~or a~~ petty drug offense, OR, NOTWITHSTANDING ANY PROVISION
2 OF THIS PART 7 TO THE CONTRARY, AN OFFENSE FOR THE POSSESSION OF
3 MARIJUANA, the court shall order that the records be sealed after the
4 motion is filed and the criminal history filed with the court documents to
5 the court that the defendant has not been convicted of a criminal offense
6 since the date of the final disposition of all criminal proceedings against
7 ~~him or her~~ THE DEFENDANT or since the date of the defendant's release
8 from supervision, whichever is later.

9 (2) (a) The provisions of this section do not apply to records
10 pertaining to:

11 (VI) A conviction that is subject to one or more of the following
12 provisions:

13 (J) Sentencing for an offense classified as a class 1, 2, or 3 felony
14 or a level 1 drug felony pursuant to any section of title 18; EXCEPT A
15 CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-106 (8)(b)(III)(B) AS IT
16 EXISTED PRIOR TO JULY 1, 1992, A CLASS 3 FELONY IN VIOLATION OF
17 SECTION 18-18-406 (6)(b)(III)(C) OR (6)(b)(III)(D) AS IT EXISTED PRIOR
18 TO JULY 1, 2013, OR A LEVEL 1 DRUG FELONY IN VIOLATION OF SECTION
19 18-18-406 (2)(b)(III);

20 **SECTION 6. Safety clause.** The general assembly hereby finds,
21 determines, and declares that this act is necessary for the immediate
22 preservation of the public peace, health, or safety.