

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0531.01 Jacob Baus x2173

HOUSE BILL 21-1090

HOUSE SPONSORSHIP

Valdez A., Bacon, Burnett, Duran, Exum, Gonzales-Gutierrez, Hooton, Jackson, Kennedy, Lontine, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Snyder, Woodrow

SENATE SPONSORSHIP

Gonzales,

House Committees
Judiciary

Senate Committees
Judiciary

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.*

SENATE
2nd Reading Unamended
April 27, 2021

HOUSE
3rd Reading Unamended
March 17, 2021

HOUSE
Amended 2nd Reading
March 16, 2021

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, 18-13-122, **amend**
16 (3)(b) as follows:

17 **18-13-122. Illegal possession or consumption of ethyl alcohol**
18 **or marijuana by an underage person - illegal possession of marijuana**
19 **paraphernalia by an underage person - definitions - adolescent**
20 **substance abuse prevention and treatment fund - legislative**
21 **declaration.** (3) (b) Except as described by section 14 of article XVIII
22 of the Colorado constitution and section 18-18-406.3, a person under
23 twenty-one years of age who possesses ~~one ounce~~ TWO OUNCES or less of
24 marijuana or consumes marijuana anywhere in the state of Colorado

1 commits illegal possession or consumption of marijuana by an underage
2 person. Illegal possession or consumption of marijuana by an underage
3 person is a strict liability offense.

4 **SECTION 3.** In Colorado Revised Statutes, 18-18-406, **amend**
5 (5)(b)(III); and **repeal** (5)(a) as follows:

6 **18-18-406. Offenses relating to marijuana and marijuana**
7 **concentrate - definitions.** (5) (a) ~~(f)~~ Except as described in section
8 18-1-711, a person who possesses not more than two ounces of marijuana
9 commits a drug petty offense and, upon conviction thereof, shall be
10 punished by a fine of not more than one hundred dollars.

11 ~~(H)~~ Whenever a person is detained for a violation of subsection
12 ~~(5)(a)(f)~~ of this section committed on or after March 1, 2020, the
13 detaining officer shall prepare a written notice or summons for the person
14 to appear in court. The written notice or summons must contain the name
15 and address of the person; the date, time, and place where such person
16 shall appear; and a place for the signature of the person indicating the
17 person's written promise to appear on the date and at the time and place
18 indicated on the notice or summons. One copy of the notice or summons
19 must be given to the person, one copy must be sent to the court where the
20 person is to appear, and such other copies as may be required by the law
21 enforcement agency employing the officer must be sent to the places
22 designated by such law enforcement agency. The date specified in the
23 notice or summons to appear must be at least seven days after the
24 issuance of the notice or summons. The place specified in the notice or
25 summons to appear must be before a judge having jurisdiction of the drug
26 petty offense within the county in which the drug petty offense charged
27 is alleged to have been committed. If the person fails to appear in

1 response to the notice or summons, the court, in its discretion, may issue
2 a warrant for the arrest of the person or an order to show cause requiring
3 the person's appearance in court.

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

9 **SECTION 4.** In Colorado Revised Statutes, 18-19-103, **repeal** (2)
10 as follows:

11 **18-19-103. Source of revenues - allocation of money.** (2) Each
12 ~~drug offender convicted of a violation of section 18-18-406 (5)(a)(I), or~~
13 ~~who receives a deferred sentence pursuant to section 18-1.3-102 for a~~
14 ~~violation of section 18-18-406 (5)(a)(I), shall be assessed a surcharge of~~
15 ~~two hundred dollars.~~

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

18 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
19 the juvenile court has exclusive original jurisdiction in proceedings:

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

22 (I) Any federal or state law, except nonfelony state traffic, game
23 and fish, and parks and recreation laws or rules; the offense specified in
24 section 18-13-122, concerning the illegal possession or consumption of
25 ethyl alcohol or marijuana by an underage person or illegal possession of
26 marijuana paraphernalia by an underage person; the offenses specified in
27 section 18-18-406 ~~(5)(a)(I), (5)(b)(I) and (5)(b)(II), concerning marijuana~~

1 and marijuana concentrate; and the civil infraction in section 18-7-109
2 (3), concerning exchange of a private image by a juvenile;

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

10 **SECTION 6.** In Colorado Revised Statutes, 24-72-706, **amend**
11 (1)(f)(I) and (2)(a)(VI)(J) as follows:

12 **24-72-706. Sealing of criminal conviction records. (1) Sealing**
13 **of conviction records. (f) (I)** If a motion is filed for the sealing of a petty
14 offense, ~~or a petty drug offense,~~ OR, NOTWITHSTANDING ANY PROVISION
15 OF THIS PART 7 TO THE CONTRARY, AN OFFENSE FOR THE POSSESSION OF
16 MARIJUANA, the court shall order that the records be sealed after the
17 motion is filed and the criminal history filed with the court documents to
18 the court that the defendant has not been convicted of a criminal offense
19 since the date of the final disposition of all criminal proceedings against
20 ~~him or her~~ THE DEFENDANT or since the date of the defendant's release
21 from supervision, whichever is later.

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

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

26 (J) Sentencing for an offense classified as a class 1, 2, or 3 felony
27 or a level 1 drug felony pursuant to any section of title 18; EXCEPT A

1 CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-106 (8)(a)(II)(B) AS IT
2 EXISTED PRIOR TO JULY 1, 1992; A CLASS 3 FELONY IN VIOLATION OF
3 SECTION 18-18-406 (8)(a)(II)(B) AS IT EXISTED PRIOR TO AUGUST 11,
4 2010; OR A CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-406
5 (6)(a)(II)(B) AS IT EXISTED PRIOR TO OCTOBER 1, 2013.

6 **SECTION 7. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety.