

## CHAPTER 157

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**CRIMINAL LAW AND PROCEDURE**


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**HOUSE BILL 21-1090**

BY REPRESENTATIVE(S) Valdez A., Bacon, Bennett, Duran, Exum, Gonzales-Gutierrez, Hooton, Jackson, Kennedy, Lontine, Michaelson Jenet, Mullica, Ortiz, Ricks, Sirota, Snyder, Woodrow;  
also SENATOR(S) Gonzales, Lee, Moreno.

**AN ACT****CONCERNING CERTAIN CRIMINAL MARIJUANA OFFENSES.**

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

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

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

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

**SECTION 2.** In Colorado Revised Statutes, 18-13-122, **amend** (3)(b) as follows:

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

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

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

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

~~(H) Whenever a person is detained for a violation of subsection (5)(a)(F) of this section committed on or after March 1, 2020, the detaining officer shall prepare a written notice or summons for the person to appear in court. The written notice or summons must contain the name and address of the person; the date, time, and place where such person shall appear; and a place for the signature of the person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One copy of the notice or summons must be given to the person, one copy must be sent to the court where the person is to appear, and such other copies as may be required by the law enforcement agency employing the officer must be sent to the places designated by such law enforcement agency. The date specified in the notice or summons to appear must be at least seven days after the issuance of the notice or summons. The place specified in the notice or summons to appear must be before a judge having jurisdiction of the drug petty offense within the county in which the drug petty offense charged is alleged to have been committed. If the person fails to appear in response to the notice or summons, the court, in its discretion, may issue a warrant for the arrest of the person or an order to show cause requiring the person's appearance in court.~~

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

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

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

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

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

- (a) Concerning any juvenile ten years of age or older who has violated:
- (I) Any federal or state law, except nonfelony state traffic, game and fish, and

parks and recreation laws or rules; the offense specified in section 18-13-122, concerning the illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person; the offenses specified in section 18-18-406 (5)(a)(I), (5)(b)(I) and (5)(b)(II), concerning marijuana and marijuana concentrate; and the civil infraction in section 18-7-109 (3), concerning exchange of a private image by a juvenile;

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

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

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

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

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

(J) Sentencing for an offense classified as a class 1, 2, or 3 felony or a level 1 drug felony pursuant to any section of title 18; EXCEPT A CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-106 (8)(a)(II)(B) AS IT EXISTED PRIOR TO JULY 1, 1992; A CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-406 (8)(a)(II)(B) AS IT EXISTED PRIOR TO AUGUST 11, 2010; OR A CLASS 3 FELONY IN VIOLATION OF SECTION 18-18-406 (6)(a)(II)(B) AS IT EXISTED PRIOR TO OCTOBER 1, 2013.

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

Approved: May 20, 2021