

SUPPORT HOUSE BILL 1148

What does this bill do? This bill simply reduces the maximum potential sentence for second degree misdemeanors and municipal offenses from 1 year to 364 days.

What difference does a day make? Under U.S. Immigration Law, an individually – lawfully present or not – can be deported for committing an “aggravated felony.” Further, aggravated felonies fall into two categories: 1) specific crimes that federal law determines to trigger deportation; and 2) crimes that are deportable if the defendant receives a 365-day sentence and this is the case regardless if the person serves that time or not. For example, a legal immigrant convicted of a crime and sentenced to 365 days with 362 of those days suspended would face the risk of deportation, even though the sentence in jail was only 3 days. There was a time when these deportations could be challenged based on the real time served, but as federal immigration law has evolved into patchwork, in 1996, that right was repealed (and many suggest it was repealed in error).

What crimes are we talking about? Class 2 misdemeanors include many, many crimes – simple theft of \$300, criminal mischief involving the same amount, a variety of property crimes involving low values.

- This bill would avoid the unintended immigration consequences of a first-time low level offense for immigrants *lawfully* present in this country. It would *NOT* impact immigration enforcement or the possible deportation of persons unlawfully in this country. Those here unlawfully are always at risk of deportation.
- Lawfully present immigrants represent a significant portion of our population and make up a significant amount of our workforce. Although the numbers vary, immigration makes up at least one-fourth of our construction workforce and one-third of our agricultural workforce.

This bill promotes court efficiency. Because of serious immigration consequences, defendants are apt to zealously challenge the charges against them. By reducing the possible sentence by 1 day, many will be encouraged to participate in plea negotiations and resolve their minor offenses more efficiently. This can reduce court backlogs and avoid unnecessarily extended court proceedings.

Colorado has a draconian misdemeanor system. At least 37* states have altered existing laws and/or enacted legislation that imposes penalties of less than one year for most of the misdemeanor crimes that are the subject of this bill and, certainly for municipal offenses. Colorado is in the minority of states with such penalties for these crimes. Many Colorado municipalities across the state have undergone similar changes for municipal offenses.

*Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware and Florida (with minor exceptions); Hawaii (for petty – including assault bar fights), Idaho, Illinois and Indiana (except Class A), Iowa, Kansas (except Class A), Kentucky (except Class A), Maine (except Class D Crimes), Massachusetts (except Level 2), Minnesota (except gross misdemeanors), Missouri (except Class A), Montana, Nebraska (except Class I), Nevada (except Gross Misdemeanors), New Hampshire (except Class A), New Jersey (includes 364 lang), New York (except Class A), North Carolina, North Dakota (except Class A), Ohio, Oregon (except Class A), South Dakota (except Class 1),

Tennessee (364 language), Texas (except Class A), Utah (except Class A), Virginia (except class 1), Washington, Wisconsin, Wyoming.