

SB 21-271 Overview

This document is only a summary of the legal changes resulting from the passage of SB 21-271. Please refer to the proper statutory authority before making a detention or arrest decision.

Sentencing

Misdemeanor- 18-1.3-501

Type	Misdemeanor
Class 1	Maximum sentence is 364 days imprisonment, not more than \$1,000 fine, or both. <ul style="list-style-type: none"> - No minimum sentence - No extraordinary risk
Class 2	Maximum sentence is 120 days imprisonment and not more than \$750 fine, or both.
Class 3	Repealed.

* Any misdemeanor attempt or conspiracy is an M2 *see 18-2-101; 18-2-201*

**Maximum sentence for a misdemeanor case is 24 months

Petty Offense: We now only have one class of Petty Offense. Max fine is \$300 or 10 days in jail or both. 18-1.3-503 C.R.S.

Civil Infractions: \$100 fine.

Statute

Statute	Title	Language Change	Penalty
18-3-106(1)(b)(I.5)	Vehicular Homicide	Adds subsection of DWAI.	F4 if committed under a DWAI theory (same as reckless theory)
18-3-205(1)(b)(I.5)	Vehicular Assault	Adds subsection for DWAI	F5 if committed under a DWAI theory (same as a reckless theory)
18-3-206	Menacing	Weapon definition changes. It used to require “deadly weapon” now state specifies if committed by use of a firearm, knife, bludgeon, simulated firearm, knife, or bludgeon.	M1 if no weapon involved or if someone verbally says they are armed. F5 if committed with designated weapon
18-3-208	Reckless Endangerment		Now an M2, previously an M3

18-3-208 (3)	Sexual Assault- 10 year age difference with victim age 15-17		Now an F6, previously an M1
18-3-412.6	Failure to Verify Location as Sex Offender		Now M2, previously unclassified misdo
18-4-103	Second Degree Arson	“knowingly set fire to a building”	Classification based on damage. Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 F6: \$2,000-\$5,000 F5: \$5,000-\$20,000 F4 \$20,000-\$100,000 F3 \$100,000-\$1Mil F2: Over \$1 mil *You will see this same monetary scheme throughout the changes.
18-4-105	Fourth Degree Arson	Knowingly or recklessly starting a fire and placing another or a building in danger of injury or damage. *Actual damage not required just value of property that was in danger.	If Property only thing in danger of damage: Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 F6: \$2,000-\$5,000 F5: \$5,000-\$20,000 F4 \$20,000-\$100,000 F3 \$100,000-\$1Mil F2: Over \$1 mil *still only an F4 if person is placed in danger. *Both property and a person placed in danger, only an F4.
18-4-203(c)	Second Degree Burglary	New subsection (c) finds that if a person is trespassed from a retail location and they return	M2

		during business hours it is an M2	
18-4-204	Third Degree Burglary		M2 (previously F5) M1 if objective of theft is of a controlled substance (previously F4).
18-4-205	Possession of Burglary Tools		Now an M2 (previously F5). Can still be an F5 if “tools were for forcing entry into a residence for purpose of a physical taking”.
18-4-401	Theft		Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 Felony amount are unchanged.
18-4-409 (4)	Second Degree Aggravated Motor Vehicle Theft		M1 if value of vehicle is under \$2,000. F6 if value is \$2,000-\$20,000
18-4-501	Criminal Mischief		Value of Damage Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 F6: \$2,000-\$5,000 F5 and above unchanged
18-4-502	First Degree Criminal Trespass		M1 (previously F5) F5 if dwelling is inhabited or occupied. Auto Trespasses are all now M1.
18-4-503	Second Degree Trespass		Petty (previously M3) F4 if trespass to agricultural land if intent is to commit a felony thereon.

			M2 if knowingly and unlawfully enters or remains in a motor vehicle
18-4-509	Defacing a Cave (previously defacing property)	Language about defacing paintings, drawings, writings, or otherwise marring the surface of a property with paint, spray paint is deleted. Now only covers defacing a cave *Essentially de-criminalizing graffiti except in caves. Likely can still pursue crim. mis.	Remains an M2
18-5-113(1)(b)(I)	Criminal Impersonation	While assuming false identity “performs and act that, if done by the person falsely impersonated, SUBJECTS such person to an action or special proceeding, civil or criminal, or to liability, charge, forfeiture, or penalty.” *Victim must actually be subjected to action.	F6
18-5-113(1)(b)(II)	Criminal Impersonation	Falsely assumes ID and performs and act that “might subject” a person to an action.	M1
18-5-113(1)(b)(III)	Criminal Impersonation	While assuming false ID “performs any other act with intent to unlawfully gain a benefit... or to injure or defraud another	M2
18-5-205	Fraud By Check		Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 F6: \$2,000-\$5,000 F5: \$5,000-\$20,000 F4 \$20,000-\$100,000 F3 \$100,000-\$1Mil F2: Over \$1 mil

			*F6 if account did not exist or was closed for 30 days prior to fraud regardless of amount.
18-5-702	Unauthorized Use of Financial Transaction Device		Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 Felony's remain the same.
18-5-902(1)(b)	Identity Theft	Possession of ID information or device with the intent to use device to obtain cash, credit, property services or any other thing of value.	M2 previously F4
18-5-902(1)(d); 18-5-902(1)(e)	Identify Theft	(1)(d)-possession with intent to use in applying for or completing an application for a financial device or extension of credit. (1)(e)-Possession with intent to obtain government issued ID	M2 previously F4 *However, if you have three or more, still an F6 but must meet intent requirements.
18-6-201	Bigamy		M2 previously F6
18-6-202	Marrying a Bigamist		repealed
18-6-401(7)(b)	Child Abuse	Negligence with no death or injury	M2 previously M3
18-6-701(1)(a)	First Degree Contributing to the Delinquency of a Minor	If aid, induce, or encourage a child to commit a felony VRA crime	F4
18-6-701(1)(b)	Second Degree Contributing to Delinquency of a Minor	Aid, induce, or encourage child to commit any crime other than a felony VRA crime	M1
18-6-803.5(2)(a)	VPO(civil)	If the basis of the protection order is DV or restrained person has previously been convicted of violating this section	M1 *If a VPO(civ) without those conditions, remains M2

		(we would need the court documents/transcript to prove basis of civil protection order).	
18-7-201;18-7-202;18-7-205	Prostitution; Soliciting for Prostitution; Patronizing a Prostitute		Petty Offense
18-7-207	Public Indecency	Removes language about subsequent violations. Regardless of how many times you have been convicted of public indecency still a petty	Petty
18-8-104	Obstructing a Peace Officer	“A Person shall not be charged ... because the person remained silent or because the person stated a verbal opposition to an order by a government official.	
18-8-111	False Reporting to Authorities	False ID is no longer under this subsection	M2 previously M3
18-8-111.5	False Reporting of Identifying Information to Law Enforcement	Provide false identifying information to law enforcement *If false ID substantially impedes an investigation or arrest for commission of a VRA felony, then F6	Generally M2 F6- if false ID substantially impedes an investigation or arrest for commission of a VRA felony crime.
18-8-203; 18-8-204.1	Introducing Contraband in First Degree; Possession of Contraband in First Degree	Deletes language about alcohol, controlled substances, and MJ. Only a crime for introducing “dangerous instrument”	F4
18-8-204; 18-8-204.2	Introducing Contraband in Second Degree; Possession of Contraband in Second Degree	Alc, CS, MJ	Controlled Sub-F6 Alc, MJ, MJ conc.- M2 *Long list of other contraband that is either designated as F6 level or M2 level

18-8-208.1	Attempted Escape		No longer carries mandatory jail; does still have to run consecutive to original sentence
18-8-208.2	Unauthorized Absence		M2 *previously M3
18-8-212(1)	Violation of Bail Bond Conditions	Person charged with a felony knowingly fails to appear in the felony case with intent to avoid prosecution	F6
18-8-212(2)	Violation of Bail Bond Conditions	Person on bond for felony or misdo and intentionally FTAs for proceeding for which a victim or witness have appeared in court	M2
18-8-306	Attempt to Influence a Public Servant	“a violation of this section does not include providing false identify information to law enforcement”	
18-8-610	Tampering with Physical Evidence	Physical Evidence of a Felony	F6
		Physical Evidence of a Misdemeanor	M1
18-9-106(f)	Disorderly Conduct	Displaying a firearm or simulated firearm (previously deadly weapon) in a public place in manner calculated to alarm	M2
		Unlawful discharge of a firearm in a public place	M1
18-9-111(1)(a); 18-9-111(1)(c)	Harassment-strike, shove, kick; Harassment-Following in public		M1 *any bias motivated harassment remains an M1 *Huge impact of plea deals now with Assault 3 and Harassment s/s/k being same class of misdo.

18-9-111(1)(b)	Harassment-Obscene language		Petty
18-9-111	Harassment	All other subsection	M2
18-9-204.5	Ownership of Dangerous Dog	No higher penalties for subsequent violations	M2
18-12-105	Unlawful carrying of a Concealed Weapon		M1 previously M2
18-12-106	Prohibited use of Weapons		M1 Previously M2 Unless using throwing stars or nunchaku then M2
18-12-108	Possession of a Weapon by a Previous Offender	Only applies to people who have been convicted of felony VRA crime or attempt/consp/solic of felony VRA crime or adjudicated in the last 10 years for a felony VRA crime of att/consp/solc	F5 *If person who violates this section uses a firearm in the commission of another crime is not eligible for probation and shall be sentenced to DOC
29-11.9-104	False Info to a Pawnbroker		Penalty based on <u>fair market value</u> of item Petty: Under \$300 M2: \$300-\$1,000 M1: \$1,000-\$2,000 F6: \$2,000-\$5,000 F5: \$5,000-\$20,000 F4 \$20,000-\$100,000 F3 \$100,000-\$1Mil F2: Over \$1 mil *Can aggregate value for multiple violations within the statute of limitations of the first offense. Be careful of double jeopardy issues.

42-2-138(1)(a)	Driving Under Restraint		Class A Traffic Infraction
42-2-138(d)(I)	Driving Under Restraint (alc)		M2 Second offense mandatory jail
42-2-206	DARP/HTO		M2- however this is minimum jail of 30 days that can be suspended if D completes no less than 40 hour UPS
42-4-1307(6)	DUI Third Sentencing		Court can find that exceptional circumstances make incarceration in a jail a substantial and immediate risk of health or safety of offender or facility may impose EHM. D must waive confidentiality for medical or health information
42-5-103	Tampering with a Motor Vehicle		Repealed

Miscellaneous changes

- For protection orders in 18-1-1001 C.R.S. the court can now enter “any further order for protection of the victim or witness not including protection of defendant from alcohol or drugs.
- Competency: Max detention for misdos is 30% of the most serious offense. This is a change from the prior 50% rule.
- Civil Infractions
 - o Officers can issue summons with both criminal and civil infractions. If any part of the summons is criminal then the county court has jurisdiction over the entire process.
 - o Civil Infractions can be lesser included offenses
 - o The DA’s office does not represent the state on civil infraction cases. However if there are any criminal charges associated with the case the DA’s office would represent the People.
 - o Statute of Limitations on a civil infraction is 6 months.

- Juvenile's charged only with infractions have dual jurisdiction in county court and juvenile court
- Good Time: 7 days is now deducted from each 30 days of good time. The inmate can get an additional 3 days per month for being a trustee, working, following the rules. Essentially, 10 days of every 30 is goodtime.