

**SENTENCING REFORM TASK FORCE**  
FINAL RECOMMENDATION PREPARED FOR THE  
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE  
February 11, 2022

**FY22-SR #09. Revise Felony Offenses Eligible for the Crime of POWPO [Statutory]**

**Recommendation FY22-SR #09**

Amend §18-12-108, C.R.S., Possession of Weapons by Previous Offenders to include additional non-VRA felony offenses (See Appendix A) based on public safety considerations.

**Proposed Statutory Language**

*No proposed statutory language (see the eligible offense list in Appendix A)*

**DISCUSSION**

Senate Bill 2021-271 made significant changes to §18-12-108, C.R.S., Possession of a Weapon by a Previous Offender (POWPO) and is scheduled for implementation on March 2022. The implementation date was designed to allow a period of review and feedback on the statutory revisions to identify any gaps, omissions, and/or mistakes in the extraordinarily detailed 350-page bill. A review was conducted of the list of eligible crimes that invoke the crime of POWPO and input was gathered from District Attorneys, representatives from Colorado Ceasefire and other community groups dedicated to gun safety issues. Based on this review and the stakeholder feedback, this recommendation expands the list of offenses to include additional non-VRA crimes that result in the POWPO offense. Also appended to the list are two POWPO-related provisions inadvertently excluded from Senate Bill 2021-271 that were previously approved as part of *Recommendation FY21-SR #01 (Revise Misdemeanor Sentencing and Offenses [Statutory])*.

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**APPENDIX A**

Additional non-VRA felony offenses for inclusion as POWPO eligible offenses:

- 1) 18-3-207 Criminal extortion (class 3 or 4 felony)
- 2) 18.3.5.103 Unlawful termination of pregnancy first degree (class 3 felony)
- 3) 18-3.5-104 Unlawful termination of pregnancy 2<sup>nd</sup> degree (class 5 felony)
- 4) 18-4-102 arson - first degree (class 3 felony)
- 5) 18-8-208 escapes (class 2-4 felony)
- 6) 18-1.3-1004 Indeterminate sex offense sentences (class 2 – class 4 sex offense or class 2 to 4 felony)
- 7) 18-3-107 first degree murder of peace officer, firefighter (encapsulated by first degree murder?)
- 8) 18-3-303 false imprisonment (class 5 felony if by force)
- 9) 18-3-305 enticement of a child (class 3-4 felony)
- 10) 18-3-306 internet luring of a child (class 4-5 felony)
- 11) 18-3-405.4 Internet sexual exploitation of a child (class 4 felony)
- 12) 18-3-405.7 Unlawful sexual conduct by a peace officer (class 3 to 4 felony)
- 13) 18-4-103 arson - second degree (class 4 felony if damage over \$100)
- 14) 18-4-104 arson - third degree (class 4 felony)
- 15) 18-4-105 arson - fourth degree (class 4 felony if person endangered)
- 16) 18-6-401.2 Habitual child abusers (class 3 or 4 felony)
- 17) 18-6-701 contributing to the delinquency of a minor – first degree (defined on page 103 in S.B. 21-271)
- 18) 18-7-203 pandering (can be class 5 felony)
- 19) 18-7-206 pimping (class 3 felony)
- 20) 18-7-403 pandering of a child (class 2 or 3 felony)
- 21) 18-7-403.5 Procurement of a child (class 3 felony)
- 22) 18-7-404 Keeping a place of child prostitution (class 3 felony)
- 23) 18-8-116 disarming a peace officer (class 5 felony)
- 24) 18-8-206 assault during escape (class 1-3 felony)
- 25) 18-8-207 holding hostages (class 2 felony)
- 26) 18-8-208.1 attempt to escape (class 4 felony)
- 27) 18-8-211 Riots in detention facilities (class 3 to 5 felony)
- 28) 18-8-608 Intimidating a juror (class 4 felony)
- 29) 18-9-102 Inciting a riot (class 5 felony)
- 30) 18-9-103 Arming rioters (class 4 felony)
- 31) 18-9-104 Engaging in a riot (class 4 felony)
- 32) 18-9-118 Firearms and explosives on public transportation (class 6 felony)
- 33) 18-9-119 Failure to leave premises on request of peace officer (class 5 felony with hostage)
- 34) 18-9-120 Terrorist training activities (class 5 felony)
- 35) 18-9-202 Aggravated Cruelty to animals (Class 6 felony)
- 36) 18-11-101 Treason (class 1 felony)
- 37) 18-11-102 Insurrection (class 5 felony)
- 38) 18-11-201 Advocating overthrow of government (class 5 felony)
- 39) 18-11-202 Inciting destruction of life or property (class 6 felony)
- 40) 18-12-102 Possessing dangerous or illegal weapon (class 4 felony)
- 41) 18-12-108.7 Unlawfully providing handgun to juvenile (class 4 felony)

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- 42) 18-12-109 Unlawful use or removal of explosives, chemical, biological nuclear weapons (class 3 to 4 felony)
- 43) 18-12-302 Possessing large capacity magazine during commission of crime of violence (class 6 felony)
- 44) 18-13-104 Dueling (class 4 felony)
- 45) 18-13-109.5 Intentionally setting wildfire (class 3 felony)
- 46) 18-13-123 Unlawful administration of ketamine (class 2 or 3 felony)
- 47) 18-13-128 Smuggling of humans (class 3 felony)
- 48) 18-17-105 Organized crime (class 2 felony)
- 49) 18-11-203 membership in anarchistic or seditious organization (class 5 felony)
- 50) 18-12-106.5 Use of stun guns (class 5 felony)
- 51) 18-9-116.5 Vehicular eluding (class 3 and class 4 felony when injury is an element)
- 52) 18-12-107.5 Illegal discharge of firearm (class 5 felony)
- 53) 18-8-112 impersonating a police officer (class 6 felony)
- 54) 18-12-105.5 Unlawfully carrying a weapon on school or university grounds (class 6 felony)
- 55) 18-8-201.1 aiding escape from behavioral or mental health facility (class 5 felony)
- 56) 18-12-108 Possession of weapon by a previous offender (used to be class 4 felony) – for offenses committed after March 2022.
- 57) 18-12-108.5 Possession of handgun by juvenile (2<sup>nd</sup> offense is class 5 felony)
- 58) 18-12-111 Unlawful purchase of firearms (class 4 felony)
- 59) Conspiracy of a listed crime
- 60) Accessory to a listed crime
- 61) Attempt of a listed crime

**Included for reconfirmation** are the following two CCJJ-approved POWPO-related elements from *Recommendation FY21-SR #01 (Revise Misdemeanor Sentencing and Offenses [Statutory])* that were inadvertently excluded from *Senate Bill 2021-271 (Misdemeanor Reform)*:

1) Special Offender - Gun

“POWPO 18-12-108. Make this crime an F5 if the underlying conviction is a felony VRA offense and the person is now in possession of a firearm. Additionally, prior convictions for...Special Offender – Gun will be the basis for the F5 charge.” [FY21-SR #01, page 174]

2) “Juvenile POWPO”

“Juveniles adjudicated for the above [POWPO-eligible] offenses will have a ban on possession of a firearm which will automatically sunset in 10 years or if granted by the court upon petition after completion of sentence (e.g. if person is entering the military).” [FY21-SR #01, page 175]