

SENTENCING REFORM TASK FORCE
FINAL RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
January 27, 2023

FY23-SR #03. Reclassify Selected Felony Crimes [Statutory]

Recommendation FY23-SR #03

This recommendation amends, appends, deletes and replaces multiple provisions of Colorado criminal statutes related to selected General Felonies, Enhanced Felonies, the re-classification or removal of felonies, and the elimination of specific aggravators for “second and subsequent offense or repeat offender.” This recommendation includes three basic concepts and the associated statutory revisions:

- 1). Amend and “right-size” felony offenses so that the classification of the offense is balanced and properly aligned with the level of seriousness of the prohibited behavior.
- 2). Eliminate “second and subsequent” increased felony classifications as necessary, given the wide ranges available in the current sentencing scheme, excluding certain criminal offenses where the classification of the crime should be increased when criminal behavior is repeated.
- 3). Amend the language defining felony offenses when the current statutory language does not properly capture the proper mental state or actions that should be required for commission of that offense.

Revisions are presented within the following felony categories:

General Felonies [*with Proposed Statutory Language, p. 3*]

- 1G) §18-12-109. Possession, use, or removal of explosives or incendiary devices....** Amend 18-12-109(2), (2.5), (6), & (6.5)
- 2G) §18-5-102. Forgery.** Amend 18-5-102(1) (c).
- 3G) §18-5-211. Insurance fraud - definitions.** Amend 18-5-211(4).
- 4G) §18-5-903. Criminal possession of a financial device.** Delete 18-5-903(2)(b) & amend 18-5-903(2)(a).
- 5G) §18-5-902. Identity theft.** Amend 18-5-902(2)(b).
- 6G) §18-8-208.2. Unauthorized absence.** Amend 18-8-208.2(1) & (2).
- 7G) §44-30-821. Cheating - definition.** Amend 44-30-821(3).

Enhanced Felonies [*with Proposed Statutory Language, p. 7*]

- 1E) §18-3-203. Assault in the second degree.** Amend 18-3-203(1) (f.5) (I) & amend 18-3-203(2) (c) (II).
- 2E) §18-3-302. Second degree kidnapping.** Amend 18-3-302(1).
- 3E) §18-4-102. First degree arson.** Amend 18-4-102(2).
- 4E) §18-4-203. Second degree burglary.** Amend 18-4-203(2)(a)
- 5E) §18-8-706. Retaliation against a witness or victim.** Amend 18-8-706(2) & add 18-8-706.5.
Aggravated Retaliation of a Witness or Victim

Classification Level Modifications [*Table, p. 11*]

See this table below for the felonies that are suggested for an increase or decrease of the current felony level with no additional statutory wording modifications.

Eliminate “Second and Subsequent Offense or Repeat Offender” Aggravator [*Table, p. 14*]

See this table below for the “second and subsequent” felonies that are suggested for simple deletion with no additional statutory wording modifications.

Delete from Colorado Revised Statutes [*Table, p. 15*]

See this table below for the felonies suggested for simple deletion with no additional statutory wording modifications.

[**PROPOSED STATUTORY LANGUAGE** is provided below for General and Enhanced Felonies. For reference, **Appendix A** (p. 16) contains the current presumptive, aggravated, and extraordinary risk crime sentence ranges.]

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Discussion

This recommendation is in response to the request by the Governor to the Commission in both the 2020 Biennial Letter and the 2022 Biennial Letter.¹ The Sentence Structure Working Group completed its misdemeanor sentencing and offense recommendations in 2021. The legislation was passed in 2021 (Senate Bill 2021-271), followed by a clean-up bill in 2022 (House Bill 2022-1229). In 2021, the Working Group then commenced its felony work by engaging in a crime severity analysis to ensure that current felony offenses are adequately classified based on the seriousness of the crime. The work required an examination of each felony offense and its elements – including the act to commit the offense and the requisite culpable mental state.

The proper alignment of felony offenses is the foundational work of sentencing reform. The re-calibration of certain crimes was necessary to secure this foundation. The recommendation to reclassify the felonies included herein reflects this foundation. Some offenses are reclassified, others are re-structured, and some language is eliminated as unnecessary, given the current implementation of Colorado’s sentencing laws.

While additional work is necessary to address “consistency” and “clarity” in sentencing, this recommendation, along with others from the Sentence Structure Working Group and Sentencing Reform Task Force, represents a thoughtful and required first step in re-shaping the felony sentencing scheme, as directed by the Governor and per the mandate of the Colorado Commission on Criminal and Juvenile Justice.

¹ The “Biennial Letter” is pursuant to House Bill 2018 - 1287 (see also, §16-11.3-103(7), C.R.S.). Statute requires that in even-numbered years the Commission request a letter from the Governor regarding topics of study. The Governor is encouraged to consult with the Chief Justice of the Colorado Supreme Court and the Majority and Minority Leaders of the Colorado House of Representatives and the Senate. The first of these letters was received June 24, 2020 and encouraged the Commission to study, discuss, and return recommendations to the Governor on a variety of sentencing-related topics. The second Biennial Letter was received September 15, 2022, which included additional sentencing issues along with other criminal justice concerns that require analysis and action.

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PROPOSED STATUTORY LANGUAGE - General Felonies

1G) §18-12-109. Possession, use, or removal of explosives or incendiary devices....

Amend 18-12-109(2), (2.5), (6) & (6.5).

BACKGROUND: This recommendation recognizes the difference between possession or control of explosive/incendiary/chemical/biological/nuclear devices, parts or weapons and the manufacturing, mailing or sending of those devices, parts or weapons. This is an attempt to right size this crime in terms of crime severity. So we are bifurcating the actions involved: (1) changing the classification of possession of explosive or incendiary devices to a class 5 felony but keeping the manufacturing etc. of those devices a class 4 felony, (2) changing the classification of possession of chemical, biological and nuclear weapons to a class 4 felony but keeping the manufacturing etc. of those a class 3 felony, and (3) changing the classification of possession of explosive or incendiary parts to a class 5 felony and the classification of possession of chemical, biological or radiological weapon parts to a class 4 felony. NOTE: Use or sending of any of these devices or weapons in the commission or attempted commission of any other felony remains a class 2 felony.

18-12-109. Possession, use, or removal of explosives or incendiary devices - possession of components thereof - chemical, biological, and nuclear weapons - persons exempt - hoaxes.

(2)(a) Any person who knowingly possesses ~~OR controls, manufactures, gives, mails, sends, or causes to be sent~~ an explosive or incendiary device commits a **CLASS 5 FELONY**. ~~a class 4 felony.~~

(b) ANY PERSON WHO KNOWINGLY MANUFACTURERS, GIVES, MAILS, SENDS OR CAUSES TO BE SENT AN EXPLOSIVE OR INCENDIARY DEVICE COMMITS A CLASS 4 FELONY.

(2.5) (a) Any person who knowingly possesses ~~OR controls, manufactures, gives, mails, sends, or causes to be sent~~ a chemical, biological or **NUCLEAR radiological** weapon commits a **CLASS 4 FELONY**.

(b) ANY PERSON WHO KNOWINGLY MANUFACTURERS, GIVES, MAILS, SENDS OR CAUSES TO BE SENT A CHEMICAL, BIOLOGICAL OR NUCLEAR radiological WEAPON commits a class 3 felony.

(6) Any person who possesses any explosive or incendiary parts commits a **CLASS 5 FELONY** ~~class 4 felony~~.

(6.5) Any person who possesses any chemical weapon, biological weapon, or **NUCLEAR radiological** weapon parts commits a **CLASS 4 FELONY** ~~class 3 felony~~.

2G) §18-5-102. Forgery

Amend 18-5-102(1) (c).

BACKGROUND. This recommendation moves forgery of “check” from 18-5-102. Forgery to 18-5-104. Second degree forgery, re-classifying from a class 5 felony to a class 2 misdemeanor. This change distinguishes “check” from more serious offenses in 18-5-102 involving stocks and bonds, deeds, will, codicil, contracts public records or a written instrument officially issued or created by a public office or government agency. When a check is fraudulent, the amount of the check will also drive a theft charge based on the amount of the check. Therefore, a check is different from the other instruments in 18-5-

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102. Hence, the recommended change is fair and equitable. Therefore, it is recommended the word “check” be deleted from 18-5-102(1)(c).

18-5-102. Forgery.

(1)(c) A deed, will, codicil, contract, assignment, commercial instrument, promissory note, ~~check~~, or other instrument which does or may evidence, create, transfer, terminate, or otherwise affect a legal right, interest, obligation, or status; or

FOR REFERENCE- CURRENT §18-5-104. Second degree forgery. (1) A person commits second degree forgery if, with intent to defraud, such person falsely makes, completes, alters, or utters a written instrument of a kind not described in section 18-5-102 or 18-5-104.5. (2) Second degree forgery is a class 2 misdemeanor.

3G) §18-5-211. Insurance fraud - definitions.

Amend 18-5-211(4).

BACKGROUND. This recommendation changes the false statement crimes in the insurance fraud statute from a class 5 felony to a class 6 felony consistent with the classification in other provisions of the law where a false statement is made and classified as a class 6 felony. When there is an action of misappropriating the funds as defined in 18-5-211(2,) the crime remains a class 5 felony since action was taken by the person to move funds in violation of the law.

18-5-211. Insurance fraud - definitions.

(4) Insurance fraud committed in violation of subsections (1)(b) to (1)(e) **OR SUBSECTION (3)** of this section is a class 6 felony and insurance fraud committed in violation of subsections (2) of this section is a class 5 felony.

4G) §18-5-903. Criminal possession of a financial device.

Delete 18-5-903(2)(b) & amend 18-5-903(2)(a).

BACKGROUND. This recommendation changes the possession of financial devices by an unauthorized person in order to: (1) better capture the actual scenarios that reflect criminal intent, and (2) simplify the crime. Criminal possession of one financial transaction device lost, stolen or delivered by mistake remains as class 2 misdemeanor. Criminal possession of 3 or more financial devices, instead of 4 or more, of which two or more are issued to different account holders is a class 5 felony. The intermediate class 6 felony is deleted in 18-5-903(2)(b) in its entirety, which eliminates the class 6 felony of the possession of two or more financial devices with no requirement of different names. The language in 18-5-903(2)(c) is revised from four financial devices to three financial devices of which two or more are issued to different account holders and remaining a class 5 felony.

18-5-903. Criminal possession of a financial device.

(2) *<This subsection (2) element itself contains no text. Text only exists in the following paragraphs.>*

(a) Criminal possession of one financial device is a class 2 misdemeanor.

~~(b) Criminal possession of two or more financial devices is a class 6 felony.~~

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- (c) Criminal possession of ~~THREE~~ **four** or more financial devices, of which at least two are issued to different account holders, is a class 5 felony.

5G) §18-5-902. Identity theft.

Amend 18-5-902(2)(b).

BACKGROUND. This recommendation changes paragraph (2)(b) of the identity theft statute from a class 6 to a class 5 felony. The crime is one of possession of three or more financial devices without lawful authority and with the intent to defraud. The language change makes this *more consistent with the changes to 18-5-903 as described in Item 4G above*. Further, we recommend that the mandatory sentence language in subsection (3) be deleted from this section 902.

18-5-902. Identity theft.

(2)(b) Identity theft in violation of subsection (1)(b), (1)(d), or (1)(e) of this section is a class 2 misdemeanor; except that it is a **CLASS 5 FELONY** ~~class 6 felony~~ if the person possesses three or more financial devices or the personal or financial identifying information of three or more persons.

~~(3) The court shall be required to sentence the defendant to the department of corrections for a term of at least the minimum of the presumptive range and may sentence the defendant to a maximum of twice the presumptive range if:~~

~~(a) The defendant is convicted of identity theft or of attempt, conspiracy, or solicitation to commit identity theft; and~~

~~(b) The defendant has a prior conviction for a violation of this part 9 or a prior conviction for an offense committed in any other state, the United States, or any other territory subject to the jurisdiction of the United States that would constitute a violation of this part 9 if committed in this state, or for attempt, conspiracy, or solicitation to commit a violation of this part 9 or for attempt, conspiracy, or solicitation to commit an offense in another jurisdiction that would constitute a violation of this part 9 if committed in this state.~~

6G) §18-8-208.2. Unauthorized absence.

Amend 18-8-208.2(1) & (2).

BACKGROUND. This recommendation addresses persons who - have been determined to be not guilty by reason of insanity, are placed in a non-locked community setting, and leave without permission - shall be subject to the unauthorized absence statute similar to those convicted offenders who leave a non-secure facility without permission. Therefore, it is recommended that the language in 18-8-208.2(1) be revised to add this additional concept.

18-8-208.2. Unauthorized absence.

(1) A person who is serving a sentence to community corrections program pursuant to 18-1.3-301; transitioning from the department of corrections to a community corrections program or placed in an intensive supervision program pursuant to 17- 27.5-101; participating in a work release or home detention program pursuant to 18-1.3- 106 (1.1), intensive supervision program, or any other similar authorized supervised or unsupervised absence from a detention facility as defined in section 18-8-

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203(3); **TRANSITIONING FROM THE DEPARTMENT OF HUMAN SERVICES TO A RESIDENTIAL FACILITY OR PROGRAM PURSUANT TO PROVISIONS OF 16-8-115 (conditional release) OR 16-8-118 (temporary removal for rehabilitation);** OR is housed in a staff secure facility as defined in 19-2.5-102 commits the crime of unauthorized absence if the person knowingly:

(2) *Note: Add in this subsection (2) statutory language in a paragraph that accomplishes the following:*

Include in this subsection (2) persons confined pursuant to criminal insanity statute while in placement in a non-secure facility as an off-grounds placement or walkaways from work or other release passes. Make this consistent with persons who are convicted of an offense and still a separate crime if the person leaves the state.

7G) §44-30-821. Cheating - definition.

Amend 44-30-821(3).

BACKGROUND. This recommendation addresses the change that is needed in this section due to the recommended deletion of the repeat gambling offender (*see the table, "Delete from Colorado Revised Statutes"*). Cheating at gambling is a misdemeanor offense and shall remain a misdemeanor offense unless the person is an owner or an employee in which case the cheating is a class 4 felony. Therefore, delete the last line stating that a repeating gambling offender violating this section commits as class 5 felony.

44-30-821. Cheating - definition.

(3) Any person issued a license pursuant to this article 30 violating any provision of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, and any other person violating any provision of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501. ~~If the person is a repeating gambling offender, the person commits a class 5 felony and shall be punished as provided in section 18-1.3-401.~~

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PROPOSED STATUTORY LANGUAGE - Enhanced Felonies

1E) §18-3-203. Assault in the second degree.

Amend 18-3-203(1) (f.5) (I) & amend 18-3-203(2) (c) (II).

BACKGROUND. This recommendation addresses the mandatory sentencing provisions in second degree assault as it relates to police officers, EMT and jail/detention facility workers. Assault that results in bodily injury against a citizen is a class 1 misdemeanor. That assault against a citizen raises to the level of a felony when there is serious bodily injury or there is the use of a deadly weapon. This is not true for police officers. A misdemeanor assault against a citizen is raised three classifications levels up to a class 4 felony if the person is a police officer, EMT, or jail/detention worker. After much input and discussion (particularly around the issue of over-representation of persons suffering from behavioral health disorders charged with this crime), it is NOT recommended that the classification level of these offenses be changed. However, it IS recommended that some of the mandatory sentence provision of this section be changed when there is no serious bodily injury or use of a deadly weapon. It is also recommended that the “spitting” or transfer of bodily fluids language as it relates to detention facility workers be same as the language that relates to peace officers. This change aligns this crime with the language in 18-3-203(1)(h) when the person affected is a peace officer, firefighter or EMT.

18-3-203. Assault in the second degree.

(1) (f.5)

(I) While lawfully confined in a detention facility within this state, a person with intent to infect, injure, ~~OR harm, harass, annoy, threaten, or alarm~~ a person in a detention facility whom the actor knows or reasonably should know to be an employee of a detention facility, causes such employee to come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit, or any toxic, caustic, or hazardous material by any means, including but not limited to throwing, tossing, or expelling such fluid or material.

The following revision is limited to crimes against peace officers which are committed without the use of a deadly weapon and from which there is no *serious bodily injury*. It is preventing an officer, EMT or Firefighter from performing lawful duty and causes *bodily injury*, which is any pain.

(2) (c)

(II) **NOTE:** Delete 18-3-203(1)(c) from the crimes eligible to be sentenced pursuant to the mandatory provisions of 18-1.3-406.

NOTE: Add 18-3-203(1)(c.5) making the crime subject to the provisions of 18-1.3-406, but not subject to mandatory CDOC incarceration (*which is language already applicable to other second-degree assaults outlined in this section but not changed in our recommendations*).

FOR REFERENCE- CURRENT (2)(c)(II): If a defendant is convicted of assault in the second degree pursuant to paragraph (b), (c), (d), or (g) of subsection (1) of this section, the court shall sentence the offender in accordance with section 18-1.3-406; except that, notwithstanding the provisions of section 18-1.3-406, the court is not required to sentence the defendant to the department of corrections for a mandatory term of incarceration.

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2E) §18-3-302. Second degree kidnapping.

Amend 18-3-302(1).

BACKGROUND. This recommendation adds the following words as an element to the crime of second-degree kidnapping: “and causes movement which increases the risk of harm to the person.” This additional element will address concerns that minor movement should not unduly enhance the level of seriousness of this crime. The language of this recommendation has evolved over time and is the direct result of the input from defense attorneys and district attorneys. Based on additional concerns raised regarding the characterization of such movements, the final language of this recommendation reflects and respects further input from district attorneys.

18-3-302. Second degree kidnapping.

(1) Any person who knowingly seizes and carries any person from one place to another, without his consent and without lawful justification **AND CAUSES SUCH MOVEMENT WHICH INCREASES THE RISK OF HARM TO THE PERSON**, commits second degree kidnapping.

3E) §18-4-102. First degree arson.

Amend 18-4-102(2).

BACKGROUND. This recommendation recognizes the difference between a building and an occupied structure in terms of crime severity. As such, a building would be classified as a class 4 felony and an occupied structure would be classified as a class 3 felony. There is a mandatory sentence component to this crime pursuant to the provisions of 18-1.3 406 which remains unchanged. Use of explosives requires a mandatory sentence and use of any deadly weapon/causes serious bodily injury requires a mandatory sentence.

18-4-102. First degree arson.

(2) First degree arson is a class 3 felony **WHEN IT IS ARSON OF AN OCCUPIED STRUCTURE AND A CLASS 4 FELONY IF IT IS AN ARSON OF A BUILDING.**

4E) §18-4-203. Second degree burglary.

Amend 18-4-203(2)(a).

BACKGROUND. This recommendation creates three crime classifications for Second degree burglary in order to more accurately address the severity of the offense. Second Degree burglary of a dwelling (“dwelling” is defined in 18-1-901) is now a class 3 felony and a Victim Rights Act crime and remains unaltered. Second degree burglary of an occupied structure (that does not serve as a dwelling) is a class 4 felony and remains unaltered. Second degree burglary of a building that is being used for the operation of a commercial business is a class 4 felony and remains unaltered. However, second degree burglary of a building such as a shed or a storage unit would be changed to a class 5 felony from a class 4 felony. This re-classification is designed to address the level of risk/severity in the burglary crime. It is important to note that the amount of theft would be charged as a separate crime, as would the amount of damage, if any.

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18-4-203. Second degree burglary.

(2)(a) Except as provided in subsection (2)(b) or (2)(c) of this section, second degree burglary is a class 4 felony, **IF IT IS A BURGLARY OF AN OCCUPIED STRUCTURE (AS DEFINED IN 18-4-101) OR OF A BUILDING BEING USED FOR THE OPERATION OF A COMMERCIAL BUSINESS. SECOND DEGREE BURGLARY IS A CLASS 5 FELONY IF THE BURGLARY IS OF ANY OTHER BUILDING.**

[For reference: (b) and (c) are unchanged]

(b) Second degree burglary is a class 3 felony if:

- (I) It is a burglary of a dwelling;
- (II) The objective of the burglary is the theft of a controlled substance, as defined in section 18-18-102 (5), lawfully kept within any building or occupied structure; or
- (III) The objective of the burglary is the theft of one or more firearms or ammunition.

(c) Second degree burglary is a class 2 misdemeanor if the person knowingly violated a written notice by a retailer or an order by a court of lawful jurisdiction specifically restraining a person from entering a particular retail location during hours which the retail store is open to the public.

5E) §18-8-706. Retaliation against a witness or victim.

Amend 18-8-706(2) & add 18-8-706.5. Aggravated retaliation

BACKGROUND. This recommendation is an attempt to align the crime of *Retaliation Against a Witness or Victim* to the Crime (18-8-706) with the crimes of *Intimidating a Witness or Victim* (18-8-704) and *Aggravated Intimidation of a Witness or Victim* (18-8-705). By way of reference, *Intimidation* is separated into two crimes: *Intimidating a Witness or Victim* (18-8-704) and *Aggravated Intimidation of a Witness or Victim* (18-8-705). The first crime of *Intimidation* is the act of harassment, mirroring the elements of the crime of harassment (which is a misdemeanor) and elevating that crime to a class 4 felony when it is directed toward a witness or victim in order to influence or interfere with that witness or victim prior to a trial. The crime of *Aggravated Intimidation* occurs when a deadly weapon is threatened/used or the person is wounded or is in fear of death or serious bodily injury and is a class 3 felony.

The crime of *Retaliation* is currently a class 3 felony and there are two separate acts of harassment (threats and threats of violence) that are merged into a single crime in 18-8-706. This recommendation bifurcates *Retaliation* in the same way that *Intimidation* is bifurcated: *Retaliation Against a Witness or Victim* through harassment and *Aggravated Retaliation Against a Witness or Victim* through harassment, coupled with being armed or wounding with a deadly weapon or causes reasonable fear of bodily injury with such weapon.

18-8-706. Retaliation against a witness or victim.

(1) An individual commits retaliation against a witness or victim if such person uses a threat, act of harassment as defined in section 18-9-111, or act of harm or injury upon any person or property, which action is directed to or committed upon a witness in any criminal or civil proceeding; a victim of any crime; an individual whom the person believes has been or would have been called to testify as a witness in any criminal or civil proceeding or a victim of any crime; a member of the witness' family; a member of the victim's family; an individual in close relationship to the witness or victim; an individual residing in the same household with the witness or victim, as retaliation or retribution against such witness or victim.

(2) Retaliation against a witness or victim is a **CLASS 4 FELONY** ~~class 3 felony~~.

[As Approved]

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18-8-706.5. AGGRAVATED RETALIATION AGAINST A WITNESS OR VICTIM.

(1) A PERSON COMMITS THE CRIME OF AGGRAVATED RETALIATION AGAINST A WITNESS OR VICTIM IF, DURING THE ACT OF RETALIATION, HE OR SHE:

(a) IS ARMED WITH A DEADLY WEAPON WITH THE INTENT, IF RESISTED, TO KILL, MAIM, OR WOUND THE PERSON BEING RETALIATED AGAINST OR ANY OTHER PERSON; OR

(b) KNOWINGLY WOUNDS THE PERSON BEING RETALIATED AGAINST OR ANY OTHER PERSON WITH A DEADLY WEAPON, OR

(c) BY THE USE OF FORCE, THREATS OR INTIMIDATION WITH A DEADLY WEAPON KNOWINGLY PUTS THE PERSON BEING RETALIATED AGAINST OR ANY OTHER PERSON IN REASONABLE FEAR OF DEATH OR BODILY INJURY.

(2) AGGRAVATED RETALIATION AGAINST A WITNESS OR VICTIM IS A CLASS 3 FELONY.

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Classification Level Modifications				
Crime	Statute	Recommended Classification	Current Classification	Notes
False Statements Workers Comp	8-43-402	F6	F5	
Second Degree Kidnapping	18-3-302(2)	F2	F4	Change to F2 for paragraph (2) "secreting a child or intending to sell trade or barter the child for consideration."
Third Degree Arson. Damages any Property by Fire with Intent to Defraud	18-4-104(2)	F5	F4	
Obtains Medical Records or Information with Intent to Appropriate or Make Copy	18-4-412(3)	M1	F6	
Steals or Discloses to Unauthorized Persons	18-4-412(3)	F5	F6	
Second Degree Criminal Trespass – Entering on Agricultural Land with Intent to Commit a Felony	18-4-503(2)(b).	F5	F4	
Third Degree Criminal Trespass on Agricultural Land that is not Fenced with Intent to Commit a Felony	18-4-504 (2) (b)	F6	F5	
Criminal Possession of Forgery Devices	18-5-109 (1)(a)(b)(d)	F5	F6	
Criminal Impersonation False Identity with Intent to Gain a Benefit or Defraud	18-5-113 (1)(a)(I)(II)	F5	F6	
Fraudulent and Duplicate Receipts – UCC provision	18-5-506 and 508	M2	F6	
Possession of Forgery Devices and Intent to Use	18-5-706	F5	F6	

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Classification Level Modifications				
Crime	Statute	Recommended Classification	Current Classification	Notes
False Reporting of Explosives	18-8-110	F5	F6	
Impersonating a Police Officer and Performing an Act in that capacity	18-8-112(2)	F5	F6	
Riots in Detention Facility. Active Participation Without a Deadly Weapon	18-8-211(2) (b)	F4	F unclassified	Eliminate sentencing range language in statute
Compensation for Official Behavior	18-8-303(1)	F4	F6	
Designation of Supplier Prohibited	18-8-307(4)	F5	F6	
Misuse of official information	18-8-402(2)	F5	F6	Similar to insider trading
Jury Tampering	18-8-609(2)	F4	Various	
Vehicular Eluding	18-9-116.5			No change to classification. Eliminate mandatory fines.
Failure to Leave Premises on Request of Peace Officer and Holds another Hostage	18-9-119(5)	F3	F4	Applies to person who knowingly holds another person hostage or who confines or detains such other person through the possession, use, or threatened use of a deadly weapon, without the other person's consent, and without proper legal authority
Failure to Leave Premises on Request of Peace Officer and Holds another Hostage	18-9-119(7)	F4	F5	Applies to person who knowingly holds another person hostage or confines or detains such other person by knowingly causing such other person to reasonably believe that he possesses a deadly weapon
Aggravated Cruelty to Animals	18-9-202(1.5)	F4	F6	
Wiretapping	18-9-303(2)	M2	F6	

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Classification Level Modifications				
Crime	Statute	Recommended Classification	Current Classification	Notes
Using Cloning Equipment to Create a Cell Phone	18-9-309(4)	M2	F4	
Possession of Ballistic Knife	18-12-102 (3)	M1	F5	Similar to blackjack, a gas gun or metallic knuckles and not the same as a machine gun, short shotgun or short rifle
Possession of a Firearm on School Grounds	18-12-105.5(1)	F5	F6	Other weapons remain an F6
Removing Explosives from the Premises	18-12 -109 (5) and (5.5)			. Keep as an F4 and F3 but delete mandatory minimum of 2 years and 4 years respectively.
Dueling	18-13-104(2)	M1	F4	Currently a petty offense if no deadly weapon and F4 if deadly weapon
Hazardous Waste violations. Abandoning the Vehicle	18-13-112(3)	F5	F4	Changes felony classification between abandoning a vehicle and intentional spilling
Hazardous Waste violations. Intentional Spilling	18-13-112(3)	F4	F4	
Smuggling of Humans	18- 13 - 128(2)	F4	F3	Also delete (3) which makes a separate offense for each person smuggled
Unlawful Entry by Excluded and Ejected Persons at Gaming	18-20-112 (1)	F6	F5	Reclassify to an F6 for violation of (1) and keep F5 for violation of (2). Delete: (3)
Unauthorized Advertising for Adoption Purposes	19-5-213.5(4)	M2	F6	
Athlete Agents Prohibited Conduct	23-16-214	M2	F6	
Personal Profit on State Moneys	24-22 -110	F5	F6	
State Agency Contracts Offering to Secure Contracts for Professional Services	24-30-1406(1)	F4	F3	

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Classification Level Modifications				
Crime	Statute	Recommended Classification	Current Classification	Notes
State Lottery Criminal Penalties	24-35-215(3)	F4	F3	
False Statement Relating to Police and Fire Pension	31-31-1203	F6	F5	
Who May Take Up Strays (without notifying the state board)	35-44-108	M2	F6	
Evade or Defeat Tax	39-21-118(1)	F6	F5	There is a fine in this section that is greater than the usual fine for an F6. Retain the increased fine.
False or Fraudulent Return	39-26-120(2)	F5	Unclassified felony	
Getting a Sport Betting License for Personal Gain	44-30-1512(3)	F4	F3	

Eliminate "Second and Subsequent Offense or Repeat Offender" Aggravator	
Crime	Statute
Pyramid Scheme	6-1-114
Theft of Trade Secrets	18-4-408(3)
Cybercrime	18-5.5 -102(3)(b)
Aggravated Cruelty to Animals	18-9-202(1.5)
Animal Fighting	18-9-204
Wiretapping and Eavesdropping	18-9-302
Illegal Communication Equipment	18-9-309 (2.5)
Dangerous Weapon	18-12-102 (3)
Sale of Second-Hand Property	18-13-114(6)(a)
Illegal Use of GHB and Ketamine	18-13-123(5)
Failure to Pay Tax of File Return	18-20-103(1)(a)
Wholesalers License	44-20-123(1)(b)
Licenses for Sale of Power Sports Vehicles	44-20-422(1)(9b)
Use of Counterfeit or Unlawful Device	44-30-824(8)
Cheating Games and Devices	44-30-825(2)

[As Approved]

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Delete from Colorado Revised Statutes	
Crime	Statute
Aggravated Robbery of controlled substances	18- 4-303(2)
First Degree Burglary (from a Pharmacy).	18-4- 202(3)
Repeat Gambler	18-10-103(2) 18-10-105(2) 18-10-106(1) 18-20-108(2) 18-20-109(8) 18-20-111(4)
Unlawful entry by excluded and ejected persons	44-30-827(3)

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APPENDIX A: Current Sentencing Ranges

18-1.3-401. Felonies classified - presumptive penalties.

(1) (a) (V.5) (A). As to any person sentenced for a felony for an offense committed on or after July 1, 2020, felonies are divided into six classes that are distinguished from one another by the following presumptive ranges of penalties that are authorized upon conviction:

Class	Presumptive Sentence Range	Aggravated Sentence Range	Extraordinary Risk Crimes Presumptive Range
1	Life		
2	8-24 years	16-48 years	
3	4-12 years	8-24 years	4-16 years
4	2-6 years	4-12 years	2-8 years
5	1-3 years	2-6 years	1-4 years
6	1 year-18 months	2-3 years	1-2 years