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## Law Enforcement, Crimes, and Corrections

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During the 2021 legislative session, the General Assembly introduced several bills concerning crimes, criminal penalties, and law enforcement. Following is a recap of the major legislation considered in these subject areas.

### Law Enforcement

A number of bills passed in 2021 about law enforcement tactics and accountability.

#### **Police accountability and reform.**

*House Bill 21-1250* revises and expands provisions in 2020's comprehensive police accountability bill (*Senate Bill 20-217*). Among some of the changes, the bill requires a multi-agency review of officer-involved civilian deaths, as well as addresses de-escalation techniques. It also requires law enforcement agencies to release body footage within 21 days in cases where there has been a complaint about officer misconduct. The bill further extends the elimination of qualified immunity to the Colorado State Patrol. Additionally, the bill provides whistleblower protections, creates a no-knock and forced entry study group, makes new contact reporting requirements, and prevents officers from avoiding personal liability for misconduct.

**Chemical restraints.** *House Bill 21-1251* limits when the sedative ketamine may be administered outside of hospitals in cases involving law enforcement. Absent a medical emergency, the bill also prohibits medics from administering the drug on a person suspected of a crime.

**Witness identification.** A showup is a form of eyewitness identification where a witness or victim is shown only one person rather than a group of people, as in a lineup. Showups generally happen at the scene of a crime and have a high rate of misidentification. *House Bill 21-1142* codifies how and when police may use showups and specifically requires use based on best practices adopted by law enforcement agencies. Further, the measure limits admissibility in court if not conducted properly as well as requires related data collection.

### Crimes and Penalties

Several bills passed in 2021 that made changes to existing crimes and penalties.

**Marijuana possession.** Colorado was one of the first states to legalize medical and recreational marijuana, and ever since, lawmakers have aligned marijuana laws accordingly. *House Bill 21-1090* allows individuals to carry two ounces of cannabis instead of a single ounce, which was previously the maximum legal limit of possession in the state. Additionally, the measure makes it easier for people with past possession or cultivation convictions to have their records sealed or pardoned by the Governor.

**Felony murder.** Prior to the 2021 legislative session, Colorado's felony murder law allowed for defendants, even those who did not participate in or cause a victim's death, to be charged with first-degree murder, which carried a sentence of life without parole. *Senate Bill 21-124* changes the sentencing standard for individuals convicted of

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being present, but not actually responsible for a murder. The bill alters the automatic sentence of life without parole to a sentence of between 16 and 48 years in prison. The law does not apply retroactively.

**Misdemeanor reform.** *Senate Bill 21-271* overhauls and restructures the state's misdemeanor sentencing laws. The bill specifically eliminates duplicate offenses, removes ones that are rarely used, and reclassifies certain other crimes. The 300 plus page bill was referred to lawmakers by the Colorado Commission on Criminal and Juvenile Justice, a multidisciplinary entity made up of prosecutors, defense attorneys, victim rights advocates, and law enforcement, among others.

### Juveniles

Lawmakers revisited juvenile justice over the legislative session, with particular interest in the sex offender registry and juveniles who committed non-violent, delinquent acts.

**Sex offender registry.** Juvenile sex offender registration and notification requirements often continue for life, without any legal avenues for removal. These requirements may impact housing and employment opportunities for individuals who are on the registry for crimes committed as a minor, even if they are now adults and have successfully completed treatment and conditions of supervision. *House Bill 21-1064* automatically removes juvenile offenders from the sex offender registry when they turn 25 years old or seven years after they were required to register, as long as they have not reoffended as an adult.

**Limit detention for non-violent juveniles.** Many juveniles who commit non-violent, delinquent acts are sent to a juvenile facility instead of to community-based supervision and intervention because of bed availability. In an effort to limit detention to youth who have committed more violent or serious offenses, *Senate Bill 21-071* lowers the statewide secure detention bed cap and

eliminates the use of cash bail for juveniles charged with or accused of committing a delinquent act.

### Pre-Trial and Parole

Lawmakers passed bills about bond hearings and special needs parole.

**Bond hearings.** Individuals arrested on a criminal offense may often spend a significant amount of time in jail waiting for a bond hearing. *House Bill 21-1280* alleviates this delay by requiring courts to hold an initial bond hearing within 48 hours of arrival at a detention facility. The bill also allows the hearing to be conducted online or over the phone. After bond is posted, a defendant must be released within six hours. Rural and under-resourced jurisdictions will also have access to a statewide bond hearing officer for weekends and holidays.

**Special needs parole.** Under Colorado law, special needs inmates who do not pose a threat to society and need medical treatment for serious, chronic health conditions may apply to be released from prison prior to their parole date. However, special needs parole is seldom granted. *Senate Bill 21-146* changes eligibility criteria for qualifying offenders. It also requires the Department of Corrections and Parole Board to develop policies and procedures to improve the special needs parole process, including re-entry support.