

FAQs for SB21-62 as amended ***Dispelling Myths***

SB21-62 **Safely Reduces arrests, cash bond and jail populations.** This legislation memorializes a modest version of the smart jail population reduction policies enacted by Colorado sheriffs in collaboration with judges, prosecutors, and public defenders during the COVID-19 pandemic. SB21-62 protects public safety while maximizing freedom for presumptively innocent people.

➤ ***Are all law enforcement and survivor groups opposed to SB21-62?***

No. Through a lengthy and careful stakeholder process, many law enforcement and survivor groups are neutral on the bill, and many individual survivors and law enforcement are supportive of the bill. As amended, the following **public safety stakeholders SUPPORT** the bill: **CO Dep't of Public Safety, Law Enforcement Action Partnership, DA Alexis King, DA Beth McCann, DA Alonzo Payne, La Plata County Sheriff Sean Smith.** The following groups are **neutral/no position** on the bill: **CO Org. for Victim Assistance, Violence Free CO, CO Coalition Against Sexual Assault, CO District Attorneys' Council.**

➤ ***Does SB21-62 lessen protections for domestic violence victims?***

No. All domestic violence cases are exempted from the summons provisions and money bond is always permitted when there is a threat to the safety of a victim. Nothing in the bill changes the mandate that people arrested on domestic violence charges must appear before a judge to acknowledge the protection order before being released on bond.

➤ ***Does SB21-62 limit arrests or bond setting for violent felonies, like murder and rape?***

No. All high-level felonies and statutory crimes of violence are completely excluded from the bill.

➤ ***Does SB21-62 prohibit arrests for felonies and Victim Rights Act offenses?***

No. High level felonies are excluded from this bill. Arrests on lower level felonies and Victim Rights Act (VRA) offenses are always permissible when there is a safety risk or a concerns of continued criminal conduct.

➤ ***Does SB21-62 require PR bonds (non-monetary bond) on felonies and violent offenses?***

No. A judge may set a money bond on any offense when there is a risk of safety to another or a risk of flight from prosecution. These are the lawful justifications for pretrial detention recognized by the U.S. Supreme Court and federal courts across the country.

➤ ***Does SB21-62 give a free pass to people who fail to appear in court?***

No. Nothing in this bill limits the ability of the court to issue arrest warrants for failure to appear (FTA) *or* of officers to execute FTA arrest warrants. People will continue to be subject to arrest and jailing on their very first missed court date. The bill does set some limits on courts imposing money bond that may lead to pretrial incarceration for simple FTA, but money bond is always permitted when the missed court date wastes victim or witness time, serves to harass victims or witnesses, or when there is a risk of flight from prosecution.

➤ ***Does SB21-62 institute the strict jail admission standards in place during COVID?***

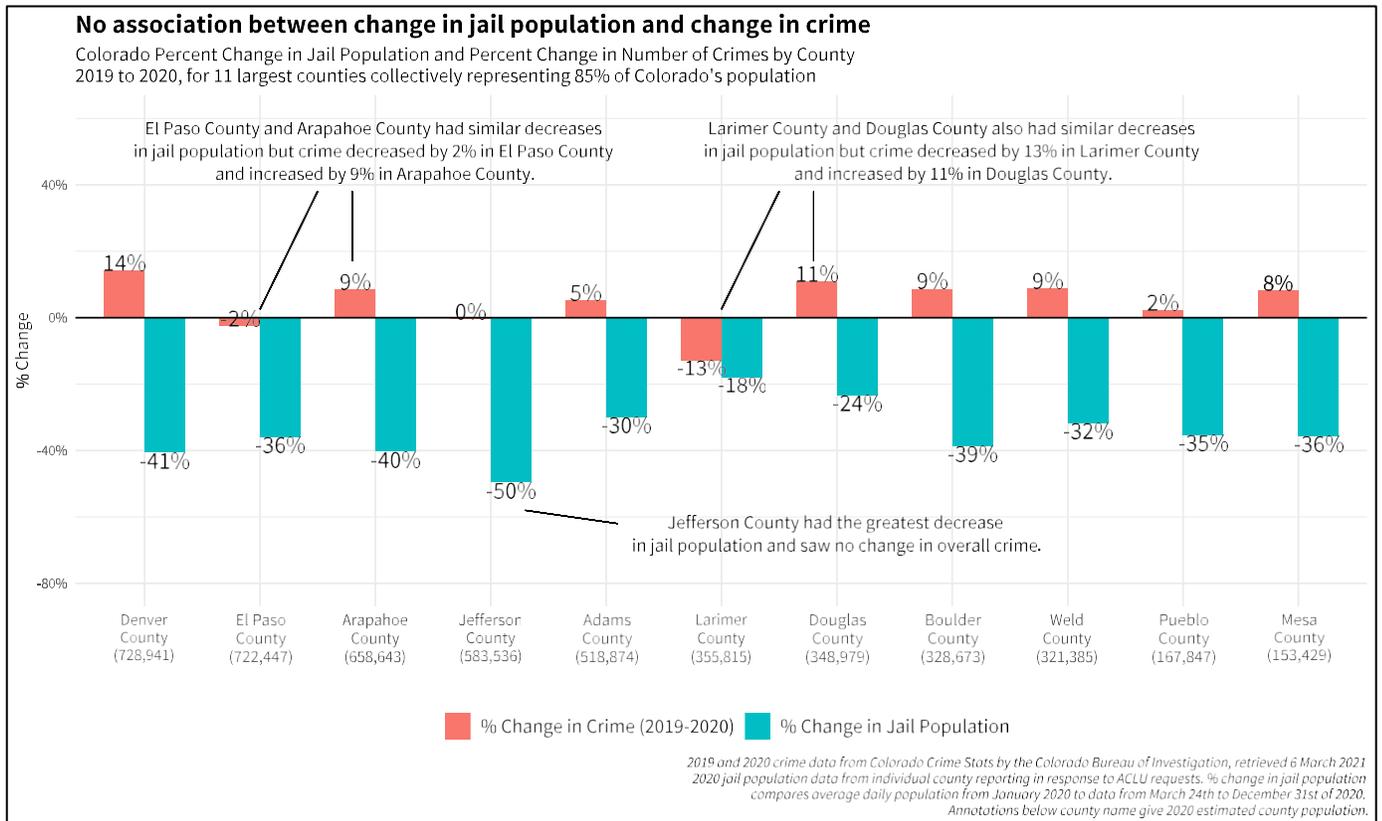
No. This bill institutes a much narrower subset of jail admission policies than those adopted by sheriffs during COVID-19. In many jails during COVID-19, most misdemeanors and many low-level felonies were blocked from entry to the jail, regardless of whether a warrant had been issued for the defendant’s arrest. SB-62 does not affect arrest on warrants, and it includes a broad safety and repeat offense exception that permits custodial arrests for all VRA misdemeanors and felonies.

➤ ***Doesn’t money bond help ensure people return to court and don’t commit new offenses?***

No. Multi-year data released by Colorado’s Division of Criminal Justice shows that money bond does not have a measured association with court appearance or criminal behavior while a person is released on bond. Instead, money bond serves to keep poor people incarcerated pretrial, while people with means can buy their freedom – regardless of any safety or flight considerations.

➤ ***Is jail population reduction driving an increase in crime?***

No. Data shows no correlation between the extent a county reduced its jail population and the change in crime in that county, as is illustrated by the graph below. Douglas County and Larimer County are an illustrative example - the two counties had similar decreases in jail population (24% and 18% respectively) and overall crime increased by 11% in Douglas County and decreased by 13% in Larimer County. Similarly, El Paso County and Arapahoe County had similar decreases in jail population (36% and 40% respectively) and overall crime decreased by 2% in El Paso County and increased by 9% in Arapahoe County. Jail depopulation does not have any measured association with crime rates.



What are the key provisions of SB21-62 to safely reduce arrests, cash bond, & jail populations?

- 1. Empowers sheriffs** to actively manage their jail populations in order to reserve jail beds for people who are a threat to the safety of others.

- 2. Increases summons in lieu of arrest:**
 - a. Mandatory summons in lieu of arrest for non-violent misdemeanors (meaning crimes *not* included in the Victim Rights Act).

 - b. For lower-level felonies and Victim Rights Act offenses, custodial arrest is appropriate to protect the safety of another or to stop further criminal conduct.

- 3. Limit pretrial detention on money bond to people who pose a safety or flight risk.**
 - a. Limits the court's imposition of money bond for lower-level felonies and misdemeanors to the key legal justifications for pretrial detention identified by the Supreme Court: safety of others and flight from prosecution.

 - b. Limits the use of money bond for failure to appear to situations where:
 - i. witnesses or victim time was wasted;
 - ii. witnesses or victims face harassment by the defendant,
 - iii. the defendant is a flight risk, or
 - iv. there were 3 or more failures to appear in the case.

 - c. Limits the use of money bond for allegations of technical (non-criminal) probation violation to when the defendant has already had their probation revoked in the past, unless the allegation is for a failure to comply with sex offense or domestic violence treatment.