

## CHAPTER 145

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 19-1030**

BY REPRESENTATIVE(S) Soper and Roberts, Baisley, Beckman, Carver, Duran, Exum, Geitner, Gray, Hooton, Jackson, Kraft-Tharp, Landgraf, Lontine, McCluskie, McKean, Neville, Ransom, Rich, Sandridge, Singer, Snyder, Titone, Van Winkle, Williams D., Arndt, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Galindo, Jaquez Lewis, Kennedy, Melton, Michaelson Jenet, Mullica, Pelton, Will, Becker;  
also SENATOR(S) Rankin and Zenzinger, Bridges, Cooke, Coram, Court, Crowder, Danielson, Fields, Foote, Gardner, Hisey, Holbert, Lundeen, Marble, Moreno, Pettersen, Priola, Scott, Smallwood, Sonnenberg, Story, Tate, Todd, Woodward, Garcia.

**AN ACT****CONCERNING CREATING THE CRIME OF UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 18-3-418 as follows:

**18-3-418. Unlawful electronic sexual communication - person in a position of trust - definitions.** (1) AN ACTOR COMMITS UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IF THE ACTOR KNOWINGLY IMPORTUNES, INVITES, OR ENTICES THROUGH COMMUNICATION VIA A COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE A PERSON WHOM THE ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER BUT LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER THAN THE ACTOR, AND THE ACTOR COMMITTING THE OFFENSE IS ONE IN A POSITION OF TRUST WITH RESPECT TO THAT PERSON, TO:

(a) EXPOSE OR TOUCH THE PERSON'S OWN OR ANOTHER PERSON'S INTIMATE PARTS WHILE COMMUNICATING WITH THE ACTOR VIA A COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE; OR

(b) OBSERVE THE ACTOR'S INTIMATE PARTS VIA A COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(2) AN ACTOR COMMITS UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IF THE ACTOR KNOWINGLY COMMUNICATES OVER A COMPUTER OR COMPUTER NETWORK, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE TO A PERSON THE ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER BUT LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER THAN THE ACTOR AND, IN THAT COMMUNICATION OR IN ANY SUBSEQUENT COMMUNICATION BY COMPUTER OR COMPUTER NETWORK, TELEPHONE NETWORK, OR DATA NETWORK OR BY TEXT MESSAGE OR INSTANT MESSAGE, DESCRIBES EXPLICIT SEXUAL CONDUCT AS DEFINED IN SECTION 18-6-403 (2)(e) AND, IN CONNECTION WITH THAT DESCRIPTION, MAKES A STATEMENT PERSUADING OR INVITING THE PERSON TO MEET THE ACTOR FOR ANY PURPOSE, AND THE ACTOR COMMITTING THE OFFENSE IS ONE IN A POSITION OF TRUST WITH RESPECT TO THAT PERSON.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "EXPLICIT SEXUAL CONDUCT" HAS THE SAME MEANING AS SECTION 18-6-403 (2)(e).

(b) "IN CONNECTION WITH" MEANS COMMUNICATIONS THAT FURTHER, ADVANCE, PROMOTE, OR HAVE A CONTINUITY OF PURPOSE AND MAY OCCUR BEFORE, DURING, OR AFTER THE INVITATION TO MEET.

(c) "POSITION OF TRUST" HAS THE SAME MEANING AS SECTION 18-3-401 (3.5).

(4) (a) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IN VIOLATION OF SUBSECTION (1) OF THIS SECTION IS A CLASS 6 FELONY.

(b) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IN VIOLATION OF SUBSECTION (2) OF THIS SECTION IS A CLASS 6 FELONY; EXCEPT THAT UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IS A CLASS 5 FELONY IF COMMITTED WITH THE INTENT TO MEET FOR THE PURPOSE OF ENGAGING IN SEXUAL EXPLOITATION AS DEFINED IN SECTION 18-6-403 OR SEXUAL CONTACT AS DEFINED IN SECTION 18-3-401.

**SECTION 2.** In Colorado Revised Statutes, 16-11.7-102, **amend** the introductory portion, (3)(x), and (3)(y); and **add** (3)(z) as follows:

**16-11.7-102. Definitions.** As used in this ~~article~~ ARTICLE 11.7, unless the context otherwise requires:

(3) "Sex offense" means any felony or misdemeanor offense described in this subsection (3) as follows:

(x) Public indecency, committed in violation of section 18-7-301 (2)(b), ~~C.R.S.~~, if a second offense is committed within five years of the previous offense or a third or subsequent offense is committed; ~~or~~

(y) Invasion of privacy for sexual gratification, as described in section 18-3-405.6; ~~C.R.S.~~; OR

(z) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, IN VIOLATION OF SECTION

18-3-418.

**SECTION 3.** In Colorado Revised Statutes, 16-22-102, **amend** (9)(aa) and (9)(bb); and **add** (9)(cc) as follows:

**16-22-102. Definitions.** As used in this article 22, unless the context otherwise requires:

(9) "Unlawful sexual behavior" means any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(aa) Invasion of privacy for sexual gratification, in violation of section 18-3-405.6; ~~C.R.S.~~; or

(bb) Second degree kidnapping, if committed in violation of section 18-3-302 (3)(a); ~~C.R.S.~~; OR

(cc) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, IN VIOLATION OF SECTION 18-3-418.

**SECTION 4.** In Colorado Revised Statutes, 18-3-411, **amend** (1) as follows:

**18-3-411. Sex offenses against children - "unlawful sexual offense" defined - limitation for commencing proceedings - evidence - statutory privilege.** (1) As used in this section, "unlawful sexual offense" means enticement of a child, as described in section 18-3-305; sexual assault, as described in section 18-3-402, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the first degree, as described in section 18-3-402, as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the second degree, as described in section 18-3-403 (1)(a), (1)(b), (1)(c), (1)(d), (1)(g), or (1)(h), as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age, or as described in section 18-3-403 (1)(e), as it existed prior to July 1, 2000, when the victim is less than fifteen years of age and the actor is at least four years older than the victim; unlawful sexual contact, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), or (1)(g), when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the third degree, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d), (1)(f), or (1)(g), as it existed prior to July 1, 2000, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault on a child, as described in section 18-3-405; sexual assault on a child by one in a position of trust, as described in section 18-3-405.3; aggravated incest, as described in section 18-6-302; human trafficking of a minor for sexual servitude, as described in section 18-3-504 (2); sexual exploitation of a child, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; indecent exposure, as described in section 18-7-302, soliciting for child prostitution, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of child prostitution, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of child prostitution, as described in section

18-7-405.5; patronizing a prostituted child, as described in section 18-7-406; class 4 felony internet luring of a child, as described in section 18-3-306 (3); internet sexual exploitation of a child, as described in section 18-3-405.4; UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, AS DESCRIBED IN SECTION 18-3-418; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

**SECTION 5. Effective date - applicability.** This act takes effect July 1, 2019, and applies to offenses committed on or after said date.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 6, 2019