

CHAPTER 216

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 93-1085

BY REPRESENTATIVES T. Hernandez, Agler, Armstrong, Benavidez, Chlouber, DeGette, Faatz, Fleming, Friednash, Hagedorn, R. Hernandez, Jerke, Kaufman, Keller, Kerns, Kreutz, Lawrence, Pierson, Strom, Sullivan, Tanner, Thiebaut, and Tucker; also SENATORS Hopper, Bishop, Gallagher, Mendez, Ruddick, Tebedo, and Traylor.

AN ACT

CONCERNING THE PREVENTION OF CRIME, AND, IN CONNECTION THEREWITH, ENACTING MEASURES TO PREVENT VIOLENT AND GANG-RELATED CRIMES.

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

SECTION 1. 18-5-205 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-5-205. Fraud by check - definitions - penalties. (3) Fraud by check is:

(a) A class 3 misdemeanor if the fraudulent check was in the sum of less than one hundred dollars;

(b) A class 2 misdemeanor if the fraudulent check was for the sum of one hundred dollars or more and less than four hundred dollars or if the offender is convicted of fraud by check involving the issuance of two or more checks within any sixty-day period in the state of Colorado totaling one hundred dollars or more and less than four hundred dollars in the aggregate;

(c) A ~~class 5~~ CLASS 6 felony if the fraudulent check was for the sum of four hundred dollars or more, or if the offender is convicted of fraud by check involving the issuance of two or more checks within any sixty-day period in the state of Colorado totaling four hundred dollars or more in the aggregate, or if the offender has been twice previously convicted under this section or a former statute of this state of similar content and purport;

(d) A ~~class 5~~ CLASS 6 felony if the fraudulent check was drawn on an account

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

which did not exist or which has been closed for a period of thirty days or more prior to the issuance of said check.

SECTION 2. 18-18-405 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession. (4) (a) Except as otherwise provided in section 18-18-407 relating to special offenders, any person convicted pursuant to paragraph (a), (b), (c), or (d) of subsection (2) of this section for knowingly dispensing, selling, distributing, or possessing with intent to dispense, sell, or distribute a controlled substance to ~~a~~ ANY person ~~under the age of eighteen years~~ either within or upon the grounds of any public or private elementary, middle, secondary, junior high, high school, ~~or~~ vocational school, OR PUBLIC HOUSING DEVELOPMENT, or within one thousand feet of the perimeter of any such school OR PUBLIC HOUSING DEVELOPMENT grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises which is accessible to the public, or within any private dwelling which is accessible to the public for the purpose of the sale, distribution, use, or exchange of controlled substances in violation of this article, shall be sentenced to the department of corrections for a minimum term of five years notwithstanding a lesser minimum term of incarceration in the presumptive range provided for such offense in section 18-1-105 (1) (a).

(b) If the conviction is subsequent to a prior conviction for a violation to which this subsection (4) applies, such person shall be sentenced to the department of corrections for at least a minimum term of twenty years notwithstanding a lesser minimum term of incarceration in the presumptive range provided for such offense in section 18-1-105 (1) (a).

(c) FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC HOUSING DEVELOPMENT" MEANS ANY LOW-INCOME HOUSING PROJECT OF ANY STATE, COUNTY, MUNICIPAL, OR OTHER GOVERNMENTAL ENTITY OR PUBLIC BODY OWNED AND OPERATED BY A PUBLIC HOUSING AUTHORITY WHICH HAS AN ON-SITE MANAGER. "PUBLIC HOUSING DEVELOPMENT" SHALL NOT INCLUDE SINGLE-FAMILY DISPERSED HOUSING OR SMALL OR LARGE CLUSTERS OF DISPERSED HOUSING WHICH HAVE NO ON-SITE MANAGER.

SECTION 3. 18-18-407 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-407. Special offender. (2) (a) Upon a conviction for a violation of section 18-18-404 or 18-18-405, if the defendant unlawfully used any controlled substance in violation of section 18-18-404 or sold or distributed any controlled substance in violation of section 18-18-405 either within or upon the grounds of any public or private elementary, middle, secondary, junior high, high school, ~~or~~ vocational school, OR PUBLIC HOUSING DEVELOPMENT, or within one thousand feet of the perimeter of any such school OR PUBLIC HOUSING DEVELOPMENT grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises which is accessible to the public, or within any private dwelling which is accessible to the public for the purpose of the sale, distribution, use, or exchange of controlled substances in violation of this article, or in any school bus as defined in section

42-1-102 (69), C.R.S., while such school bus is engaged in the transportation of persons who are students at any public or private elementary, middle, or secondary school, the defendant shall be a special offender and shall require the court, in addition to any sentence to imprisonment, to fine the defendant without suspension at least twice the minimum fine provided for in section 18-1-105 (1) (a) (III) if the defendant's offense is a felony or in section 18-1-106 (1) if the defendant's offense is a misdemeanor.

(b) The department of education may cooperate with local boards of education AND THE OFFICIALS OF PUBLIC HOUSING DEVELOPMENTS, and make recommendations regarding the uniform implementation and furnishing of notice of the provisions of this subsection (2). Such recommendations may include, but shall not be limited to, the uniform use of signs and other methods of notification which may be used to implement this subsection (2).

(c) FOR THE PURPOSES OF THIS SECTION, THE TERM "PUBLIC HOUSING DEVELOPMENT" HAS THE SAME MEANING AS DEFINED IN SECTION 18-18-405 (4) (c).

SECTION 4. No appropriation. The general assembly hereby finds that the general fund moneys saved resulting from the implementation of section 1 of this act offset the general fund moneys required to be expended to implement sections 2 and 3 of this act and, therefore, the general assembly has determined that this act can be implemented within existing appropriations and no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 1993, and shall apply 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: June 2, 1993