

## CHAPTER 171

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 00-1107**

BY REPRESENTATIVES Kaufman, Gagliardi, Coleman, George, Gotlieb, Hagedorn, Scott, Stengel, and Swenson;  
also SENATORS Wham, Hernandez, Powers, Tebedo.

**AN ACT**

CONCERNING SUBSTANTIVE CHANGES FOR THE STRENGTHENING OF THE CRIMINAL LAWS, AND MAKING  
AN APPROPRIATION THEREFOR.

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

**SECTION 1.** 18-8-208 (4) and (5), Colorado Revised Statutes, are amended to read:

**18-8-208. Escapes.** (4) A person commits a class 3 misdemeanor if, while being in custody or confinement following conviction of a misdemeanor or petty offense OR A VIOLATION OF A MUNICIPAL ORDINANCE, he OR SHE knowingly escapes from said place of custody or confinement.

(5) A person commits a class 1 petty offense if, while being in custody or confinement and held for or charged with but not convicted of a misdemeanor or petty offense OR VIOLATION OF A MUNICIPAL ORDINANCE, he OR SHE knowingly escapes from said custody or confinement.

**SECTION 2.** 18-17-103 (5) (b) (IV), Colorado Revised Statutes, is amended to read:

**18-17-103. Definitions.** As used in this article, unless the context otherwise requires:

(5) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(b) Any violation of the following provisions of the Colorado statutes or any criminal act committed in any jurisdiction of the United States which, if committed

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

in this state, would be a crime under the following provisions of the Colorado statutes:

(IV) Offenses involving fraud, as defined in sections 18-5-102 (forgery), 18-5-104 (second degree forgery), 18-5-105 (criminal possession of forged instrument), 18-5-109 (criminal possession of forgery devices), 6-16-111, C.R.S., (felony charitable fraud), 18-5-206 (defrauding a secured creditor or debtor), ~~and~~ 18-5-403 (bribery in sports), 18-5-113 (CRIMINAL IMPERSONATION), AND 18-5-114 (OFFERING A FALSE DOCUMENT FOR RECORDING);

**SECTION 3.** 18-3-203 (1) (f), Colorado Revised Statutes, is amended to read:

**18-3-203. Assault in the second degree.** (1) A person commits the crime of assault in the second degree if:

(f) While lawfully confined or in custody, he or she KNOWINGLY AND violently applies physical force against the person of a peace officer or firefighter engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or, while lawfully confined or in custody as a result of being charged with or convicted of a crime or as a result of being charged as a delinquent child or adjudicated as a delinquent child, he or she KNOWINGLY AND violently applies physical force against a person engaged in the performance of his or her duties while employed by or under contract with a detention facility, as defined in section 18-8-203 (3), or while employed by the division in the department of human services responsible for youth services and who is a youth services counselor or is in the youth services worker classification series, and the person committing the offense knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or a person engaged in the performance of his or her duties while employed by or under contract with a detention facility or while employed by the division in the department of human services responsible for youth services. A sentence imposed pursuant to this paragraph (f) shall be mandatory (and the court shall not grant probation or a suspended sentence, in whole or in part) and shall run consecutively with any sentences being served by the offender; except that, if the offense is committed against a person employed by the division in the department of human services responsible for youth services, the court may grant probation or a suspended sentence in whole or in part, and such sentence may run concurrently or consecutively with any sentences being served. A person who participates in a work release program, a furlough, or any other similar authorized supervised or unsupervised absence from a detention facility, as defined in section 18-8-203 (3), and who is required to report back to the detention facility at a specified time shall be deemed to be in custody.

**SECTION 4.** 18-9-111 (1) (e) and (3), Colorado Revised Statutes, are amended to read:

**18-9-111. Harassment - stalking.** (1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

(e) Initiates communication with a person, anonymously or otherwise by telephone, COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM in a manner intended to

harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM ~~which~~ THAT is obscene; or

(3) Any act prohibited by paragraph (e) of subsection (1) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, ELECTRONIC MAIL, OR OTHER ELECTRONIC COMMUNICATION was either made or received.

**SECTION 5.** 18-3-206, Colorado Revised Statutes, is amended to read:

**18-3-206. Menacing.** (1) A person commits the crime of menacing if, by any threat or physical action, he OR SHE knowingly places or attempts to place another person in fear of imminent serious bodily injury. Menacing is a class 3 misdemeanor, but, IT IS A CLASS 5 FELONY if committed:

(a) By the use of a deadly weapon OR ANY ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON; OR

(b) BY THE PERSON REPRESENTING VERBALLY OR OTHERWISE THAT HE OR SHE IS ARMED WITH A DEADLY WEAPON. ~~it is a class 5 felony.~~

**SECTION 6.** 18-3-302 (4), Colorado Revised Statutes, is amended to read:

**18-3-302. Second degree kidnapping.** (4) Second degree kidnapping is a class 3 felony if the kidnapping is accomplished with intent to sell, trade, or barter the victim for consideration or if the kidnapping ~~is accomplished by the use of a deadly weapon~~ but did not include sexual assault or robbery, BUT IS ACCOMPLISHED BY THE USE OF A DEADLY WEAPON OR ANY ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON, OR IF THE KIDNAPPING IS ACCOMPLISHED BY THE PERPETRATOR REPRESENTING VERBALLY OR OTHERWISE THAT HE OR SHE IS ARMED WITH A DEADLY WEAPON. A defendant convicted pursuant to this subsection (4) shall be sentenced by the court in accordance with the provisions of section 16-11-309, C.R.S.

**SECTION 7.** 18-5.5-101 (2), Colorado Revised Statutes, is amended, and the said 18-5.5-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**18-5.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Computer" means an electronic, MAGNETIC, OPTICAL, ELECTROMAGNETIC, OR OTHER DATA PROCESSING device which performs logical, arithmetic, ~~or~~ memory, OR STORAGE functions by the manipulations of electronic, ~~or~~ magnetic, RADIO WAVE, OR LIGHT WAVE impulses, and includes all input, output, processing, storage, software, or communication facilities which are connected or related to OR OPERATING IN CONJUNCTION WITH such a device. ~~in a system or network.~~

(6.3) "DAMAGE" INCLUDES, BUT IS NOT LIMITED TO, ANY IMPAIRMENT TO THE

INTEGRITY OF AVAILABILITY OF INFORMATION, DATA, COMPUTER PROGRAM, COMPUTER SOFTWARE, OR SERVICES ON OR VIA A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR PART THEREOF.

(6.7) "EXCEED AUTHORIZED ACCESS" MEANS TO ACCESS A COMPUTER WITH AUTHORIZATION AND TO USE SUCH ACCESS TO OBTAIN OR ALTER INFORMATION, DATA, COMPUTER PROGRAM, OR COMPUTER SOFTWARE THAT THE PERSON IS NOT ENTITLED TO SO OBTAIN OR ALTER.

**SECTION 8.** 18-5.5-102, Colorado Revised Statutes, is amended to read:

**18-5.5-102. Computer crime.** (1) ~~Any person who knowingly uses any computer, computer system, computer network, or any part thereof for the purpose of devising or executing any scheme or artifice to defraud; obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises; using the property or services of another without authorization; or committing theft commits computer crime.~~ A PERSON COMMITS COMPUTER CRIME IF THE PERSON KNOWINGLY:

(a) ACCESSES A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF WITHOUT AUTHORIZATION; EXCEEDS AUTHORIZED ACCESS TO A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF; OR USES A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF WITHOUT AUTHORIZATION OR IN EXCESS OF AUTHORIZED ACCESS; OR

(b) ACCESSES ANY COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM, OR ANY PART THEREOF FOR THE PURPOSE OF DEVISING OR EXECUTING ANY SCHEME OR ARTIFICE TO DEFRAUD; OR

(c) ACCESSES ANY COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM, OR ANY PART THEREOF TO OBTAIN, BY MEANS OF FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS, OR PROMISES, MONEY; PROPERTY; SERVICES; PASSWORDS OR SIMILAR INFORMATION THROUGH WHICH A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF MAY BE ACCESSED; OR OTHER THING OF VALUE; OR

(d) ACCESSES ANY COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM, OR ANY PART THEREOF TO COMMIT THEFT; OR

(e) WITHOUT AUTHORIZATION OR IN EXCESS OF AUTHORIZED ACCESS ALTERS, DAMAGES, INTERRUPTS, OR CAUSES THE INTERRUPTION OR IMPAIRMENT OF THE PROPER FUNCTIONING OF, OR CAUSES ANY DAMAGE TO, ANY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, COMPUTER SOFTWARE, PROGRAM, APPLICATION, DOCUMENTATION, OR DATA CONTAINED IN SUCH COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF; OR

(f) CAUSES THE TRANSMISSION OF A COMPUTER PROGRAM, SOFTWARE, INFORMATION, CODE, DATA, OR COMMAND BY MEANS OF A COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OR ANY PART THEREOF WITH THE INTENT TO CAUSE DAMAGE TO OR TO CAUSE THE INTERRUPTION OR IMPAIRMENT OF THE PROPER FUNCTIONING OF OR THAT ACTUALLY CAUSES DAMAGE TO OR THE INTERRUPTION OR

IMPAIRMENT OF THE PROPER FUNCTIONING OF ANY COMPUTER, COMPUTER NETWORK, COMPUTER SYSTEM, OR PART THEREOF.

~~(2) Any person who knowingly and without authorization uses, alters, damages, or destroys any computer, computer system, or computer network described in section 18-5.5-101 or any computer software, program, documentation, or data contained in such computer, computer system, or computer network commits computer crime.~~

(3) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), if the loss, damage, VALUE OF SERVICES, or thing of value taken, ~~in~~ OR COST OF RESTORATION OR REPAIR CAUSED BY A violation of this section is less than one hundred dollars, computer crime is a class 3 misdemeanor; if one hundred dollars or more but less than five hundred dollars, computer crime is a class 2 misdemeanor; if five hundred dollars or more but less than fifteen thousand dollars, computer crime is a ~~class 5~~ CLASS 4 felony; if fifteen thousand dollars or more, computer crime is a class 3 felony.

(b) COMPUTER CRIME COMMITTED IN VIOLATION OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 2 MISDEMEANOR; EXCEPT THAT, IF THE PERSON HAS PREVIOUSLY BEEN CONVICTED UNDER THIS SECTION, A PREVIOUS VERSION OF THIS SECTION, OR A STATUTE OF ANOTHER STATE OF SIMILAR CONTENT AND PURPORT, COMPUTER CRIME COMMITTED IN VIOLATION OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS A CLASS 6 FELONY.

**SECTION 9.** 18-8-211 (2) (a), Colorado Revised Statutes, is amended to read:

**18-8-211. Riots in detention facilities.** (2) Active participation in a riot by any person while confined in any detention facility within the state:

(a) Is a class 3 felony if the participant employs IN THE COURSE OF SUCH PARTICIPATION a deadly weapon, as defined in section 18-1-901 (3) (e), ~~or~~ a destructive device, as defined in section 18-9-101 (1), OR ANY ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON, OR IF THE PARTICIPANT, IN THE COURSE OF SUCH PARTICIPATION, REPRESENTS VERBALLY OR OTHERWISE THAT HE OR SHE IS ARMED WITH A DEADLY WEAPON; ~~in the course of such participation;~~ or

**SECTION 10.** 18-9-104 (1), Colorado Revised Statutes, is amended to read:

**18-9-104. Engaging in a riot.** (1) A person commits an offense if he OR SHE engages in a riot. The offense is a class 4 felony if IN THE COURSE OF RIOTING the actor employs a deadly weapon, ~~or~~ A destructive device, ~~in the course of rioting~~ OR ANY ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON, OR IF IN THE COURSE OF RIOTING THE ACTOR REPRESENTS VERBALLY OR OTHERWISE THAT HE OR SHE IS ARMED WITH A DEADLY WEAPON; otherwise, it is a class 2 misdemeanor.

**SECTION 11.** The introductory portion to 18-9-106 (1) and 18-9-106 (1) (f), Colorado Revised Statutes, are amended to read:

**18-9-106. Disorderly conduct.** (1) A person commits disorderly conduct if he

OR SHE intentionally, knowingly, or recklessly:

(f) Not being a peace officer, displays a deadly weapon, DISPLAYS ANY ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON, OR REPRESENTS VERBALLY OR OTHERWISE THAT HE OR SHE IS ARMED WITH A DEADLY WEAPON in a public place in a manner calculated to alarm.

**SECTION 12.** 18-18-205 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**18-18-205. Schedule III.** (2) Unless specifically excepted by Colorado or federal law, or Colorado or federal regulation, or more specifically included in another schedule, the following controlled substances are listed in schedule III:

(f) DRONABINOL (SYNTHETIC) IN SESAME OIL AND ENCAPSULATED IN A SOFT GELATIN CAPSULE IN A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED DRUG PRODUCT [OTHER NAMES FOR DRONABINOL: (6aR-TRANS)-6a,7,8,10a-TETRAHYDRO-6,6,9-TRIMETHYL-3-PENTYL-6H-DIBENZO [b,d] PYRAN-1-O1, OR (-)-DELTA-9-(TRANS)-TETRAHYDROCANNABINOL];

**SECTION 13. Repeal.** 18-18-204 (2) (e) (I), Colorado Revised Statutes, is repealed as follows:

**18-18-204. Schedule II.** (2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule II:

~~(e) (I) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product [Other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d]pyran-1-o1, or (-)-delta-9-(trans)-tetrahydrocannabinol];~~

**SECTION 14.** 18-18-205 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**18-18-205. Schedule III.** (2) Unless specifically excepted by Colorado or federal law, or Colorado or federal regulation, or more specifically included in another schedule, the following controlled substances are listed in schedule III:

(g) KETAMINE, ITS SALTS, ISOMERS, AND SALTS OF ISOMERS [OTHER NAMES FOR KETAMINE: (+)-2-(2-CHLOROPHENYL)-2-(METHYLAMINO)-CYCLOHEXANONE].

**SECTION 15.** 18-13-123 (1), (2), and (4), Colorado Revised Statutes, are amended to read:

**18-13-123. Unlawful use of gamma hydroxybutyrate (GHB).** (1) Except as otherwise provided in subsection (4) of this section, it shall be unlawful for any person to knowingly possess gamma hydroxybutyrate (GHB) ~~or ketamine~~, or the immediate chemical precursors or chemical analogs for ~~either of such substances~~

SUBSTANCE.

(2) Except as otherwise provided in subsection (4) of this section, it shall be unlawful for any person to knowingly manufacture, distribute, dispense, sell, or possess with intent to manufacture, distribute, dispense, or sell gamma hydroxybutyrate (GHB) ~~or ketamine~~; or the immediate chemical precursors or chemical analogs for ~~either of such substances~~ SUBSTANCE.

(4) It shall not be a violation of this section if ~~either~~ gamma hydroxybutyrate (GHB) ~~or ketamine~~ is possessed, manufactured, distributed, dispensed, or sold for bona fide medical needs by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense such substances.

**SECTION 16.** 42-1-102 (58), Colorado Revised Statutes, is amended to read:

**42-1-102. Definitions.** As used in articles 1 to 4 of this title, unless the context otherwise requires:

(58) "Motor vehicle" means any self-propelled vehicle which is designed primarily for travel on the public highways and which is generally and commonly used to transport persons and property over the public highways, but the term does not include motorized bicycles as defined in paragraph (b) of subsection (59) of this section, wheelchairs as defined by subsection (113) of this section, or vehicles moved solely by human power. "Motor vehicle" includes a neighborhood electric vehicle operated pursuant to section 42-4-111 (1) (aa). For the purposes of the offenses described in sections 42-2-128, 42-4-1301, and 42-4-1401 for farm tractors AND OFF-HIGHWAY VEHICLES, AS DEFINED IN SECTION 33-14.5- 101 (3), C.R.S., operated on streets and highways, "motor vehicle" includes a farm tractor OR AN OFF-HIGHWAY VEHICLE which is not otherwise classified as a motor vehicle.

**SECTION 17.** 18-9-116.5, Colorado Revised Statutes, is amended to read:

**18-9-116.5. Vehicular eluding.** Any person who, while operating a motor vehicle, knowingly eludes or attempts to elude a peace officer also operating a motor vehicle, and who knows or reasonably should know that he OR SHE is being pursued by said peace officer, and who operates his OR HER vehicle in a reckless manner, ~~creating a substantial risk of bodily injury to another person~~, commits vehicular eluding. Vehicular eluding is a class 5 felony; except that vehicular eluding which results in bodily injury to another person is a class 4 felony and vehicular eluding which results in death to another person is a class 3 felony.

**SECTION 18.** 18-3-402, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**18-3-402. Sexual assault.** (1) ANY ACTOR WHO KNOWINGLY INFLECTS SEXUAL INTRUSION OR SEXUAL PENETRATION ON A VICTIM COMMITS SEXUAL ASSAULT IF:

(a) THE ACTOR CAUSES SUBMISSION OF THE VICTIM BY MEANS OF SUFFICIENT CONSEQUENCE REASONABLY CALCULATED TO CAUSE SUBMISSION AGAINST THE VICTIM'S WILL; OR

(b) THE ACTOR KNOWS THAT THE VICTIM IS INCAPABLE OF APPRAISING THE NATURE OF THE VICTIM'S CONDUCT; OR

(c) THE ACTOR KNOWS THAT THE VICTIM SUBMITS ERRONEOUSLY, BELIEVING THE ACTOR TO BE THE VICTIM'S SPOUSE; OR

(d) AT THE TIME OF THE COMMISSION OF THE ACT, THE VICTIM IS LESS THAN FIFTEEN YEARS OF AGE AND THE ACTOR IS AT LEAST FOUR YEARS OLDER THAN THE VICTIM AND IS NOT THE SPOUSE OF THE VICTIM; OR

(e) AT THE TIME OF THE COMMISSION OF THE ACT, THE VICTIM IS AT LEAST FIFTEEN YEARS OF AGE BUT LESS THAN SEVENTEEN YEARS OF AGE AND THE ACTOR IS AT LEAST TEN YEARS OLDER THAN THE VICTIM AND IS NOT THE SPOUSE OF THE VICTIM; OR

(f) THE VICTIM IS IN CUSTODY OF LAW OR DETAINED IN A HOSPITAL OR OTHER INSTITUTION AND THE ACTOR HAS SUPERVISORY OR DISCIPLINARY AUTHORITY OVER THE VICTIM AND USES THIS POSITION OF AUTHORITY TO COERCE THE VICTIM TO SUBMIT, UNLESS THE ACT IS INCIDENT TO A LAWFUL SEARCH; OR

(g) THE ACTOR, WHILE PURPORTING TO OFFER A MEDICAL SERVICE, ENGAGES IN TREATMENT OR EXAMINATION OF A VICTIM FOR OTHER THAN A BONA FIDE MEDICAL PURPOSE OR IN A MANNER SUBSTANTIALLY INCONSISTENT WITH REASONABLE MEDICAL PRACTICES.

(2) SEXUAL ASSAULT IS A CLASS 4 FELONY, EXCEPT AS PROVIDED IN SUBSECTIONS (3), (4), AND (5) OF THIS SECTION.

(3) SEXUAL ASSAULT IS A CLASS 1 MISDEMEANOR IF COMMITTED UNDER THE CIRCUMSTANCES OF PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION.

(4) SEXUAL ASSAULT IS A CLASS 3 FELONY IF IT IS ATTENDED BY ANY ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES:

(a) THE ACTOR CAUSES SUBMISSION OF THE VICTIM THROUGH THE ACTUAL APPLICATION OF PHYSICAL FORCE OR PHYSICAL VIOLENCE; OR

(b) THE ACTOR CAUSES SUBMISSION OF THE VICTIM BY THREAT OF IMMINENT DEATH, SERIOUS BODILY INJURY, EXTREME PAIN, OR KIDNAPPING, TO BE INFLICTED ON ANYONE, AND THE VICTIM BELIEVES THAT THE ACTOR HAS THE PRESENT ABILITY TO EXECUTE THESE THREATS; OR

(c) THE ACTOR CAUSES SUBMISSION OF THE VICTIM BY THREATENING TO RETALIATE IN THE FUTURE AGAINST THE VICTIM, OR ANY OTHER PERSON, AND THE VICTIM REASONABLY BELIEVES THAT THE ACTOR WILL EXECUTE THIS THREAT. AS USED IN THIS PARAGRAPH (c), "TO RETALIATE" INCLUDES THREATS OF KIDNAPPING, DEATH, SERIOUS BODILY INJURY, OR EXTREME PAIN; OR

(d) THE ACTOR HAS SUBSTANTIALLY IMPAIRED THE VICTIM'S POWER TO APPRAISE OR CONTROL THE VICTIM'S CONDUCT BY EMPLOYING, WITHOUT THE VICTIM'S CONSENT, ANY DRUG, INTOXICANT, OR OTHER MEANS FOR THE PURPOSE OF CAUSING SUBMISSION; OR



(e) THE VICTIM IS PHYSICALLY HELPLESS AND THE ACTOR KNOWS THE VICTIM IS PHYSICALLY HELPLESS AND THE VICTIM HAS NOT CONSENTED.

(5) (a) SEXUAL ASSAULT IS A CLASS 2 FELONY IF ANY ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES EXIST:

(I) IN THE COMMISSION OF THE SEXUAL ASSAULT, THE ACTOR IS PHYSICALLY AIDED OR ABETTED BY ONE OR MORE OTHER PERSONS; OR

(II) THE VICTIM SUFFERS SERIOUS BODILY INJURY; OR

(III) THE ACTOR IS ARMED WITH A DEADLY WEAPON OR AN ARTICLE USED OR FASHIONED IN A MANNER TO CAUSE A PERSON TO REASONABLY BELIEVE THAT THE ARTICLE IS A DEADLY WEAPON OR REPRESENTS VERBALLY OR OTHERWISE THAT THE ACTOR IS ARMED WITH A DEADLY WEAPON AND USES THE DEADLY WEAPON, ARTICLE, OR REPRESENTATION TO CAUSE SUBMISSION OF THE VICTIM.

(b) (I) IF A DEFENDANT IS CONVICTED OF SEXUAL ASSAULT PURSUANT TO THIS SUBSECTION (5), THE COURT SHALL SENTENCE THE DEFENDANT IN ACCORDANCE WITH SECTION 18-1-105 (9) (e). A PERSON CONVICTED SOLELY OF SEXUAL ASSAULT PURSUANT TO THIS SUBSECTION (5) SHALL NOT BE SENTENCED UNDER THE CRIME OF VIOLENCE PROVISIONS OF SECTION 16-11-309 (2), C.R.S. ANY SENTENCE FOR A CONVICTION UNDER THIS SUBSECTION (5) SHALL BE CONSECUTIVE TO ANY SENTENCE FOR A CONVICTION FOR A CRIME OF VIOLENCE UNDER SECTION 16-11-309, C.R.S.

(II) THE PROVISIONS OF THIS PARAGRAPH (b) SHALL APPLY TO OFFENSES COMMITTED PRIOR TO NOVEMBER 1, 1998.

(6) ANY PERSON CONVICTED OF SEXUAL ASSAULT COMMITTED ON OR AFTER NOVEMBER 1, 1998, UNDER ANY OF THE CIRCUMSTANCES DESCRIBED IN THIS SECTION SHALL BE SENTENCED IN ACCORDANCE WITH THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16, C.R.S.

**SECTION 19. Repeal.** 18-3-403, Colorado Revised Statutes, is repealed.

**SECTION 20.** The introductory portion to 18-3-404 (1) and 18-3-404 (1.5), (1.7), (2), and (3), Colorado Revised Statutes, are amended to read:

**18-3-404. Unlawful sexual contact.** (1) Any actor who knowingly subjects a victim to any sexual contact commits UNLAWFUL sexual ~~assault in the third degree~~ CONTACT if:

(1.5) Any person who knowingly, with or without sexual contact, induces or coerces a child by any of the means set forth in section 18-3-402 ~~or 18-3-403~~ to expose intimate parts or to engage in any sexual contact, intrusion, or penetration with another person, for the purpose of the actor's own sexual gratification, commits UNLAWFUL sexual ~~assault in the third degree~~ CONTACT. For the purposes of this subsection (1.5), the term "child" means any person under the age of eighteen years.

(1.7) Any person who knowingly observes or takes a photograph of another person's intimate parts without that person's consent, in a situation where the person

observed has a reasonable expectation of privacy, for the purpose of the observer's own sexual gratification, commits UNLAWFUL sexual ~~assault in the third degree~~ CONTACT. For purposes of this subsection (1.7), "photograph" includes any photograph, motion picture, videotape, print, negative, slide, or other mechanically, electronically, or chemically reproduced visual material.

(2) UNLAWFUL sexual ~~assault in the third degree~~ CONTACT is a class 1 misdemeanor, but it is a class 4 felony if the actor compels the victim to submit by use of such force, intimidation, or threat as specified in section ~~18-3-402 (1) (a), (1) (b), or (1) (e)~~ 18-3-402 (4) (a), (4) (b), OR (4) (c) or if the actor engages in the conduct described in paragraph (g) of subsection (1) of this section or subsection (1.5) of this section.

(3) If a defendant is convicted of the class 4 felony of UNLAWFUL sexual ~~assault in the third degree~~ CONTACT pursuant to subsection (1.5) or (2) of this section, the court shall sentence the defendant in accordance with the provisions of section 16-11-309, C.R.S.; except that this subsection (3) shall not apply to paragraph (g) of subsection (1) of this section as it applies to subsection (2) of this section.

**SECTION 21.** 14-10-129 (3) (b) (IV), (3) (b) (V), and (3) (b) (VI), Colorado Revised Statutes, are amended to read:

**14-10-129. Modification of parenting time.** (3) (b) The provisions of paragraph (a) of this subsection (3) shall apply to the following crimes:

(IV) (A) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.; AND

(B) Sexual assault in the first degree, as ~~defined~~ DESCRIBED in section 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(V) Sexual assault in the second degree, as ~~defined~~ DESCRIBED in section 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(VI) (A) UNLAWFUL SEXUAL CONTACT IF THE VICTIM IS COMPELLED TO SUBMIT, AS DESCRIBED IN SECTION 18-3-404 (2), C.R.S.; AND

(B) Sexual assault in the third degree if the victim is compelled to submit, as described in section 18-3-404 (2), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 22.** 16-10-301 (2), Colorado Revised Statutes, is amended to read:

**16-10-301. Evidence of similar transactions - legislative declaration.** (2) This section applies to prosecution for any offense involving unlawful sexual behavior as defined in section 18-3-412.5 (1), C.R.S., or first degree murder, as defined in section 18-3-102 (1) (d), C.R.S., in which the underlying felony on which the first degree murder charge is based is the commission or attempted commission of SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-4-302, C.R.S., sexual assault in the first or second degree as THOSE OFFENSES WERE ~~defined~~ DESCRIBED in sections 18-3-402 and 18-3-403, C.R.S., AS THEY EXISTED PRIOR TO JULY 1, 2000, or the commission of a class 3 felony for sexual assault on a child as defined in section 18-3-405 (2), C.R.S.

**SECTION 23.** 16-11.7-102 (3) (a), (3) (b), and (3) (c), Colorado Revised Statutes, are amended to read:

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

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

(a) (I) SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, C.R.S.; OR

(II) Sexual assault in the first degree, in violation of section 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(b) Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(c) (I) UNLAWFUL SEXUAL CONTACT, IN VIOLATION OF SECTION 18-3-404, C.R.S.; OR

(II) Sexual assault in the third degree, in violation of section 18-3-404, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 24.** 16-13-803 (5) (a) (I), (5) (a) (II), and (5) (a) (III), Colorado Revised Statutes, are amended to read:

**16-13-803. Definitions.** As used in this part 8, unless the context otherwise requires:

(5) (a) "Sex offense" means any of the following offenses:

(I) (A) SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.; OR

(B) Sexual assault in the first degree, as described in section 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(II) Sexual assault in the second degree, as described in section 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(III) (A) FELONY UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404 (2), C.R.S.; OR

(B) Felony sexual assault in the third degree, as described in section 18-3-404 (2), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 25.** The introductory portion to 18-1-105 (9.7) (b) and 18-1-105 (9.7) (b) (I), (9.7) (b) (II), and (9.7) (b) (III), Colorado Revised Statutes, are amended to read:

**18-1-105. Felonies classified - presumptive penalties.** (9.7) (b) Crimes ~~which~~ THAT present an extraordinary risk of harm to society shall include the following:

(I) (A) SEXUAL ASSAULT, AS DEFINED IN SECTION 18-3-402; OR

(B) Sexual assault in the first degree, as defined in section 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000;

(II) Sexual assault in the second degree, as defined in section 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000;

(III) (A) UNLAWFUL SEXUAL CONTACT, AS DEFINED IN SECTION 18-3-404; OR

(B) Sexual assault in the third degree, as defined in section 18-3-404, AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 26.** 18-1-106 (3) (b) (I.5) and (3) (b) (II), Colorado Revised Statutes, are amended to read:

**18-1-106. Misdemeanors classified - penalties.** (3) (b) Misdemeanors that present an extraordinary risk of harm to society shall include the following:

(I.5) (A) SEXUAL ASSAULT, AS DEFINED IN SECTION 18-3-402; OR

(B) Sexual assault in the second degree, as defined in section 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000;

(II) (A) UNLAWFUL SEXUAL CONTACT, AS DEFINED IN SECTION 18-3-404; OR

(B) Sexual assault in the third degree, as defined in section 18-3-404, AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 27.** 18-1-704 (2) (c), Colorado Revised Statutes, is amended to read:

**18-1-704. Use of physical force in defense of a person.** (2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(c) The other person is committing or reasonably appears about to commit kidnapping as defined in section 18-3-301 or 18-3-302, robbery as defined in section 18-4-301 or 18-4-302, sexual assault as set forth in section 18-3-402, or IN SECTION 18-3-403 AS IT EXISTED PRIOR TO JULY 1, 2000, or assault as defined in sections 18-3-202 and 18-3-203.

**SECTION 28.** 18-3-102 (1) (b), Colorado Revised Statutes, is amended to read:

**18-3-102. Murder in the first degree.** (1) A person commits the crime of murder in the first degree if:

(b) Acting either alone or with one or more persons, he OR SHE commits or attempts to commit arson, robbery, burglary, kidnapping, SEXUAL ASSAULT AS PROHIBITED BY SECTION 18-3-402, sexual assault in the first or second degree as prohibited by section 18-3-402 or 18-3-403 AS THOSE SECTIONS EXISTED PRIOR TO JULY 1, 2000, or a class 3 felony for sexual assault on a child as provided in section

18-3-405 (2), or the crime of escape as provided in section 18-8-208, and, in the course of or in furtherance of the crime that he OR SHE is committing or attempting to commit, or of immediate flight therefrom, the death of a person, other than one of the participants, is caused by anyone; or

**SECTION 29.** 18-3-411 (1) and (2), Colorado Revised Statutes, are amended to read:

**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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ DESCRIBED in section 18-3-405; sexual assault on a child by one in a position of trust, as ~~defined~~ DESCRIBED in section 18-3-405.3; aggravated incest, as ~~defined~~ DESCRIBED in section 18-6-302; trafficking in children, as ~~defined~~ DESCRIBED in section 18-6-402; sexual exploitation of a child, as ~~defined~~ DESCRIBED in section 18-6-403; procurement of a child for sexual exploitation, as ~~defined~~ DESCRIBED in section 18-6-404; indecent exposure, as ~~defined~~ DESCRIBED in section 18-7-302, soliciting for child prostitution, as ~~defined~~ DESCRIBED in section 18-7-402; pandering of a child, as ~~defined~~ DESCRIBED in section 18-7-403; procurement of a child, as ~~defined~~ DESCRIBED in section 18-7-403.5; keeping a place of child prostitution, as ~~defined~~ DESCRIBED in section 18-7-404; pimping of a child, as ~~defined~~ DESCRIBED in section 18-7-405; inducement of child prostitution, as ~~defined~~ DESCRIBED in section 18-7-405.5; patronizing a prostituted child, as ~~defined~~ DESCRIBED in section 18-7-406; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

(2) No person shall be prosecuted, tried, or punished for an unlawful sexual offense other than the misdemeanor ~~offense~~ OFFENSES specified in ~~section~~ SECTIONS 18-3-402 AND 18-3-404, unless the indictment, information, complaint, or action for the same is found or instituted within ten years after commission of the offense. No person shall be prosecuted, tried, or punished for a misdemeanor offense specified in section 18-3-402 OR 18-3-404, unless the indictment, information, complaint, or action for the same is found or instituted within five years after the commission of the offense. The ten-year statute of limitations shall apply to all offenses specified in

subsection (1) of this section which are alleged to have occurred on or after July 1, 1979.

**SECTION 30.** 18-3-412.5 (1) (b) (I), (1) (b) (II), (1) (b) (III), (7) (a) (II), and (7) (a) (III), Colorado Revised Statutes, are amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (1) (b) On and after July 1, 1994, any person who is convicted in the state of Colorado of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) and any person who has been convicted on and after July 1, 1994, in any other state or jurisdiction of an offense that, if committed in the state of Colorado, would constitute an offense involving unlawful sexual behavior as defined in this subsection (1) or any person who is released from the custody of the department of corrections having completed serving a sentence for an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) shall be required to register in the manner prescribed in subsection (3) of this section. For purposes of this section, "unlawful sexual behavior" means any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(I) (A) SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402; OR

(B) Sexual assault in the first degree, in violation of section 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000;

(II) Sexual assault in the second degree, in violation of section 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000;

(III) (A) UNLAWFUL SEXUAL CONTACT, IN VIOLATION OF SECTION 18-3-404; OR

(B) Sexual assault in the third degree, in violation of section 18-3-404 AS IT EXISTED PRIOR TO JULY 1, 2000;

(7) (a) Any person required to register pursuant to subsection (1) or (3.5) of this section may petition the district court for an order that discontinues the requirement for such registration as follows:

(II) Except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (a), if the offense that required such person to register constituted or would constitute a class 4, 5, or 6 felony or the class 1 misdemeanor of UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404 OR sexual assault in the third degree as described in section 18-3-404, AS IT EXISTED PRIOR TO JULY 1, 2000, after a period of ten years from the date of such person's final release from the jurisdiction of the court for such offense, if such person has not subsequently been convicted of any offense involving unlawful sexual behavior;

(III) Except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (a), if the offense that required such person to register constituted or would constitute a misdemeanor other than the class 1 misdemeanor of UNLAWFUL SEXUAL CONTACT, AS DESCRIBED IN SECTION 18-3-404 OR sexual assault in the third degree as described

in section 18-3-404, AS IT EXISTED PRIOR TO JULY 1, 2000, after a period of five years from the date of such person's final release from the jurisdiction of the court for such offense, if such person has not subsequently been convicted of any offense involving unlawful sexual behavior;

**SECTION 31.** 18-3-414.5 (1) (a) (II) (A), (1) (a) (II) (B), and (1) (a) (II) (C), Colorado Revised Statutes, are amended to read:

**18-3-414.5. Sexually violent predator.** (1) As used in this section, unless the context otherwise requires:

(a) "Sexually violent predator" means an offender:

(II) Who has been convicted on or after July 1, 1999, of one of the following offenses committed on or after July 1, 1997:

(A) SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402 OR sexual assault in the first degree, in violation of section 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000;

(B) Sexual assault in the second degree, in violation of section 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000;

(C) UNLAWFUL SEXUAL CONTACT, IN VIOLATION OF SECTION 18-3-404 (1.5) OR (2) OR sexual assault in the third degree, in violation of section 18-3-404 (1.5) or (2), AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 32.** 18-6.5-103 (7) (a), (7) (b), and (7) (c), Colorado Revised Statutes, are amended to read:

**18-6.5-103. Crimes against at-risk adults and at-risk juveniles - classifications.** (7) (a) Any person who commits a crime of SEXUAL ASSAULT, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-402, sexual assault in the first degree, as such crime ~~is~~ WAS described in section 18-3-402, AS IT EXISTED PRIOR TO JULY 1, 2000, and the victim is an at-risk adult or an at-risk juvenile commits a class 2 felony.

(b) Any person who commits a crime of sexual assault in the second degree, as such crime ~~is~~ WAS described in section 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000, and the victim is an at-risk adult or an at-risk juvenile, commits a class 3 felony.

(c) Any person who commits UNLAWFUL SEXUAL CONTACT, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-404 OR sexual assault in the third degree, as such crime ~~is~~ WAS described in section 18-3-404, AS IT EXISTED PRIOR TO JULY 1, 2000, and the victim is an at-risk adult or an at-risk juvenile, commits a class 6 felony; except that the person commits a class 3 felony if the person compels the victim to submit by use of such force, intimidation, or threat as specified in section ~~18-3-402 (1) (a), (1) (b) or (1) (c);~~ 18-3-402 (4) (a), (4) (b), or (4) (c), or if the actor engages in the conduct described in section 18-3-404 (1) (g) or (1.5).

**SECTION 33.** 19-2-517 (1) (a) (III), Colorado Revised Statutes, is amended to read:

**19-2-517. Direct filing - repeal.** (1) (a) A juvenile may be charged by the direct filing of an information in the district court or by indictment only when:

(III) The juvenile has, within the two previous years, been adjudicated a juvenile delinquent for a delinquent act that constitutes a felony, is sixteen years of age or older, and allegedly has committed a crime defined by section 18-1-105, C.R.S., as a class 3 felony, except felonies defined by SECTION 18-3-402 (1) (d), C.R.S., OR section 18-3-403 (1) (e), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000; or

**SECTION 34.** 24-4.1-302 (1) (n), (1) (o), and (1) (p), Colorado Revised Statutes, are amended to read:

**24-4.1-302. Definitions.** As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following offenses as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile:

(n) (I) SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, C.R.S., OR

(II) Sexual assault in the first degree, in violation of section 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(o) Sexual assault in the second degree, in violation of section 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(p) (I) UNLAWFUL SEXUAL CONTACT, IN VIOLATION OF SECTION 18-3-404, C.R.S., OR

(II) Sexual assault in the third degree, in violation of section 18-3-404, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 35.** 24-4.2-104 (1) (a) (II) (B), Colorado Revised Statutes, is amended to read:

**24-4.2-104. Surcharges levied on criminal actions and traffic offenses.**

(1) (a) (II) (B) The surcharge in sub-subparagraph (A) of this subparagraph (II) shall apply to charges brought pursuant to the following sections: 18-3-305, 18-3-402, 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5, 18-6-301, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-302, 18-7-402, 18-7-405, 18-7-405.5, and 18-7-406, C.R.S., or any attempt to commit any of these crimes.

**SECTION 36.** 24-72-304 (4) (b) (I) (A), (4) (b) (I) (B), and (4) (b) (I) (C), Colorado Revised Statutes, are amended to read:

**24-72-304. Inspection of criminal justice records.** (4) (b) (I) A criminal justice agency or custodian of criminal justice records shall make the notation "SEXUAL ASSAULT" on any record of official action and on the file containing such record when the official action is related to the commission or the alleged commission of any of the following offenses:



(A) SEXUAL ASSAULT UNDER SECTION 18-3-402, C.R.S., OR sexual assault in the first degree under section 18-3-402, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(B) Sexual assault in the second degree under section 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

(C) UNLAWFUL SEXUAL CONTACT UNDER SECTION 18-3-404, C.R.S., OR sexual assault in the third degree under section 18-3-404, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000;

**SECTION 37.** 25-1-124 (2) (d), Colorado Revised Statutes, is amended to read:

**25-1-124. Health care facilities - consumer information - reporting - release.**

(2) (d) Any occurrence involving physical, sexual, or verbal abuse of a patient or resident, as described in section 18-3-202, 18-3-203, 18-3-204, 18-3-206, 18-3-402, 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000, 18-3-404, or 18-3-405, C.R.S., by another patient or resident, an employee of the facility, or a visitor to the facility;

**SECTION 38.** 18-18-206 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**18-18-206. Schedule IV.** (2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule IV:

(f) ZALEPLON.

**SECTION 39.** The introductory portion to 18-9-106 (1) and 18-9-106 (1) (b), Colorado Revised Statutes, are amended as follows:

**18-9-106. Disorderly conduct.** (1) A person commits disorderly conduct if he OR SHE intentionally, knowingly, or recklessly:

(b) ~~Abuses or threatens a person in a public place in an obviously offensive manner; or~~

**SECTION 40.** 18-18-407 (2) (a), Colorado Revised Statutes, is amended to read:

**18-18-407. Special offender.** (2) (a) A defendant shall be a special offender if the defendant is convicted of selling, distributing, or possessing with intent to distribute any controlled substance in violation of section 18-18-405 to any person either within or upon the grounds of any public or private elementary, middle, junior high, or high school, 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~~ THAT is accessible to the public, or within any private dwelling ~~which~~ THAT 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 (88), C.R.S., while such school bus is engaged in the transportation of persons who are students at any public or private elementary, middle, junior high, or high school. The court is required in addition to

imposing ~~any~~ THE sentence to imprisonment REQUIRED BY SUBSECTION (1) OF THIS SECTION, 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.

**SECTION 41.** The introductory portion to 18-8-404 (1), Colorado Revised Statutes, is amended to read:

**18-8-404. First degree official misconduct.** (1) A public servant commits first degree official misconduct if, with intent to obtain a benefit for ~~himself~~ THE PUBLIC SERVANT OR ANOTHER or maliciously to cause harm to another, he OR SHE knowingly:

**SECTION 42.** 18-18-407 (1) (d), Colorado Revised Statutes, is amended to read:

**18-18-407. Special offender.** (1) Upon a felony conviction under this part 4, the presence of any one or more of the following extraordinary aggravating circumstances designating the defendant a special offender shall require the court to sentence the defendant to a term of at least the minimum term of years within the presumptive range for a class 2 felony but not more than twice the maximum term of years within the presumptive range for a class 2 felony:

(d) The defendant unlawfully introduced, distributed, or imported into the state of Colorado any schedule I or II controlled substance (contained in part 2 of this article); ~~or, with the intent to promote or facilitate the introduction, distribution, or importation of any schedule I or II controlled substance (contained in part 2 of this article) into the state of Colorado, the defendant aided, abetted, or advised another person to introduce, distribute, or import any schedule I or II controlled substance (contained in part 2 of this article) into the state of Colorado;~~

**SECTION 43.** 18-8-204 (2) (b), Colorado Revised Statutes, is amended to read:

**18-8-204. Introducing contraband in the second degree.** (2) "Contraband" as used in this section means any of the following, but does not include any article or thing referred to in section 18-8-203:

(b) Any tool or instrument ~~which~~ THAT could be used to cut FENCE OR WIRE, dig, pry, or file;

**SECTION 44.** 42-4-1601 (4) (b), Colorado Revised Statutes, is amended to read:

**42-4-1601. Accidents involving death or personal injuries - duties.** (4) As used in this section and sections 42-4-1603 and 42-4-1606:

(b) "Serious bodily injury" means injury ~~which~~ THAT involves, EITHER AT THE TIME OF THE ACTUAL INJURY OR AT A LATER TIME, a substantial risk of death, a substantial risk of serious permanent disfigurement, or a substantial risk of protracted loss or impairment of the function of any part or organ of the body, OR BREAKS, FRACTURES, OR BURNS OF THE SECOND OR THIRD DEGREE.

**SECTION 45.** 18-12-105.5, Colorado Revised Statutes, is amended to read:

**18-12-105.5. Unlawfully carrying a weapon - unlawful possession of weapons - school, college, or university grounds.** (1) A person commits a class 2 ~~misdemeanor~~ 6 FELONY if such person knowingly and unlawfully and without legal authority carries, brings, or has in such person's possession a deadly weapon as defined in section 18-1-901 (3) (e) in or on the real estate and all improvements erected thereon of any public or private elementary, middle, junior high, ~~or~~ high, OR VOCATIONAL school or any public or private college, university, or seminary, except for the purpose of presenting an authorized public demonstration or exhibition pursuant to instruction in conjunction with an organized school or class, for the purpose of carrying out the necessary duties and functions of an employee of an educational institution ~~which~~ THAT require the use of a deadly weapon, or for the purpose of participation in an authorized extracurricular activity or on an athletic team.

(2) ~~Notwithstanding the provisions of section 18-1-106, upon a conviction for a violation of this section either within or upon the grounds of any public or private elementary, middle, junior high, or high school or vocational school, the defendant shall be a special offender and the court, if it determines that incarceration is appropriate, shall be required to sentence the defendant to a term that is greater than the twelve-month maximum sentence specified for the class 2 misdemeanor but not more than twice the twelve-month maximum term specified for the class 2 misdemeanor. In addition to such term of imprisonment, the court shall fine the defendant without suspension at least the maximum fine of one thousand dollars specified for the class 2 misdemeanor but not more than ten times the one thousand dollar maximum fine specified for the class 2 misdemeanor.~~

**SECTION 46.** 42-2-206 (1) (a) and the introductory portion to 42-2-206 (1) (b) (I), Colorado Revised Statutes, are amended, and the said 42-2-206 (1) (b) (I) is further amended BY THE ADDITION OF A NEW SUB-SUBPARAGRAPH, to read:

**42-2-206. Driving after revocation prohibited.** (1) (a) It is unlawful for any person to operate any motor vehicle in this state while the revocation of the department prohibiting the operation remains in effect. Any person found to be an habitual offender, who ~~is thereafter convicted of operating~~ OPERATES a motor vehicle in this state while the revocation of the department prohibiting such operation is in effect, commits a class 1 misdemeanor and shall be punished as provided in section 18-1-106, C.R.S.

(b) (I) A person commits the crime of aggravated driving with a revoked license if he or she is found to be an habitual offender and thereafter ~~convicted of operating~~ OPERATES a motor vehicle in this state while the revocation of the department prohibiting such operation is in effect and, as a ~~result~~ PART of the same criminal episode, ~~is also convicted of~~ COMMITS any of the following offenses:

(F) VEHICULAR ELUDING, AS DESCRIBED IN SECTION 18-9-116.5, C.R.S.

**SECTION 47.** 16-5-401 (6) and (8) (a) (I), Colorado Revised Statutes, are amended to read:

**16-5-401. Limitation for commencing criminal proceedings.** (6) The period

of time during which a person may be prosecuted shall be extended for an additional seven years as to any offense charged under section 18-3-402, C.R.S., or SECTION 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, when the victim at the time of the commission of the act is a child under fifteen years of age, or under section 18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S., or charged as criminal attempt, conspiracy, or solicitation to commit any of the acts specified in any of said sections.

(8) (a) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section, the period of time during which a person may be prosecuted shall be ten years after the commission of the offense as to any offense:

(I) Charged under section 18-3-402, 18-3-403, AS IT EXISTED PRIOR TO JULY 1, 2000, 18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S.;

**SECTION 48.** 18-3-305 (1), Colorado Revised Statutes, is amended to read:

**18-3-305. Enticement of a child.** (1) A person commits the crime of enticement of a child if he OR SHE invites or persuades, or attempts to invite or persuade, a child under the age of fifteen years to enter any vehicle, building, room, or secluded place with the intent to commit sexual assault ~~in any degree~~ OR UNLAWFUL SEXUAL CONTACT upon said child. It is not necessary to a prosecution for attempt under this subsection (1) that the child have perceived the defendant's act of enticement.

**SECTION 49.** 18-3-412 (1), Colorado Revised Statutes, is amended to read:

**18-3-412. Habitual sex offenders against children - indictment or information - verdict of the jury.** (1) For the purpose of this section, "unlawful sexual offense" means 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ 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 ~~defined~~ DESCRIBED in section 18-3-405; sexual assault on a child by one in a position of trust, as ~~defined~~ DESCRIBED in section 18-3-405.3; aggravated incest, as ~~defined~~ DESCRIBED in section 18-6-302; trafficking in children, as ~~defined~~ DESCRIBED in section 18-6-402; sexual exploitation of a child, as ~~defined~~ DESCRIBED in section 18-6-403; procurement of a child for sexual exploitation, as

~~defined~~ DESCRIBED in section 18-6-404; soliciting for child prostitution, as ~~defined~~ DESCRIBED in section 18-7-402; pandering of a child, as ~~defined~~ DESCRIBED in section 18-7-403; procurement of a child, as ~~defined~~ DESCRIBED in section 18-7-403.5; keeping a place of child prostitution, as ~~defined~~ DESCRIBED in section 18-7-404; pimping of a child, as ~~defined~~ DESCRIBED in section 18-7-405; inducement of child prostitution, as ~~defined~~ DESCRIBED in section 18-7-405.5; patronizing a prostituted child, as ~~defined~~ DESCRIBED in section 18-7-406; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

**SECTION 50.** Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-1-132. Appropriation to comply with section 2-2-703 - HB 00-1107.**

(1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT H.B. 00-1107, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2000, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF EIGHT HUNDRED TWELVE THOUSAND SEVEN HUNDRED SIXTY-FOUR DOLLARS (\$812,764).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF THREE HUNDRED TWENTY-SIX THOUSAND THIRTY-TWO DOLLARS (\$326,032).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THREE HUNDRED SIX THOUSAND NINE HUNDRED EIGHTY-FIVE DOLLARS (\$306,985).

(c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF FIFTY THOUSAND THREE HUNDRED SIXTY-FOUR DOLLARS (\$50,364).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FOUR HUNDRED THIRTY THOUSAND ONE HUNDRED TWENTY-EIGHT DOLLARS (\$430,128).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE

APPROPRIATED, THE SUM OF FOUR HUNDRED FORTY-NINE THOUSAND ONE HUNDRED FIFTY-ONE DOLLARS (\$449,151).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FOUR HUNDRED FORTY-NINE THOUSAND ONE HUNDRED FIFTY-ONE DOLLARS (\$449,151).

**SECTION 51.** The introductory portion to 24-75-302 (2) and 24-75-302 (2) (m), (2) (n), and (2) (o) are amended to read:

**24-75-302. Capital construction fund - capital assessment fees - calculation.**

(2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 2002, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(m) On July 1, 2000, one hundred million dollars, plus one hundred eighty-four thousand ninety dollars pursuant to H.B. 97-1186; plus four hundred seventy-eight thousand six hundred thirty-four dollars pursuant to H.B. 97-1077, enacted at the first regular session of the sixty-first general assembly; plus twelve thousand two hundred seventeen dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus seventy-one thousand two hundred seven dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; PLUS EIGHT HUNDRED TWELVE THOUSAND SEVEN HUNDRED SIXTY-FOUR DOLLARS PURSUANT TO H.B. 00-1107, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY;

(n) On July 1, 2001, one hundred million dollars, plus one hundred fifty-four thousand six hundred thirty-six dollars pursuant to H.B. 97-1186; plus nine hundred five thousand seven hundred twenty-three dollars pursuant to H.B. 97-1077, enacted at the first regular session of the sixty-first general assembly; plus nine thousand eight hundred ninety dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus three hundred forty-nine thousand fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; PLUS THREE HUNDRED TWENTY-SIX THOUSAND THIRTY-TWO DOLLARS PURSUANT TO H.B. 00-1107, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY; and

(o) On July 1, 2002, thirteen thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus eight million three hundred seven thousand five hundred nine dollars pursuant to H.B. 98-1156, enacted at the second regular session of the sixty-first general assembly; plus three hundred ninety-seven thousand nine hundred twenty-three dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; PLUS FIFTY THOUSAND THREE HUNDRED SIXTY-FOUR

DOLLARS PURSUANT TO H.B. 00-1107, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY.

**SECTION 52. Effective date - applicability.** This act shall take effect July 1, 2000, and shall apply to offenses committed on or after said date.

**SECTION 53. 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 23, 2000