

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0032.02 Michael Dohr x4347

HOUSE BILL 26-1281

HOUSE SPONSORSHIP

Carter and Espenoza,

SENATE SPONSORSHIP

Weissman and Hinrichsen,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ALIGNMENT OF CRIMINAL OFFENSES THAT INVOLVE**
102 **THE DEATH OF ANOTHER PERSON.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, if a person engages in conduct that creates a grave risk to human life with an extreme indifference to the value of human life and causes the death of another person, the person commits first degree murder. The bill requires that the person:

- Cause the death of more than one person;
- Cause the death of one person and cause serious bodily

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- injury to 2 or more persons by means of a deadly weapon;
- Cause the death of a child who is under 12 years old; or
- Cause the death of a peace officer, emergency medical service provider, emergency medical care provider, or firefighter engaged in the performance of their duties.

The bill creates a new charge of murder in the second degree if a person engages in conduct that creates a grave risk to human life with an extreme indifference to the value of human life and causes the death of only one other person.

The bill creates the offense of aggravated vehicular homicide by operating a motor vehicle in a reckless manner or while under the influence of or impaired by alcohol or other drugs and causing the death of another person when the person also:

- Has been convicted twice of driving under the influence or driving while ability impaired;
- Has been convicted of vehicular homicide or vehicular assault;
- Commits the offense while eluding or attempting to elude law enforcement;
- Commits the offense while in flight from the commission of another felony offense, not including a traffic offense; or
- Commits the offense while driving at a high rate of speed, creating an imminent risk of death or serious bodily injury to another person.

The bill creates the new offense of negligent vehicular homicide if a person drives a motor vehicle with criminal negligence and causes the death of another person. Negligent vehicular homicide is a class 5 felony.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Within the current Colorado sentencing structure, originally
5 based on the Model Penal Code, there exists confusion and imbalance in
6 offenses involving the extreme indifference mental state in crimes
7 resulting in death;

8 (b) As a result, Colorado has become one of the most punitive
9 states in the country for extreme indifference or similar mental states but
10 has not appropriately addressed aggravating circumstances and most

1 common culpable mental states for other crimes. Legislation that will
2 create a more thoughtful and balanced sentencing structure that is
3 consistent with Colorado case law while responsive to the need for
4 community safety is necessary.

5 (c) Accountability for deaths caused by drivers in Colorado
6 requires a fuller range of defined crimes and penalties to account for
7 differences in mental state and aggravating circumstances; and

8 (d) The alignment of Colorado's homicide crimes with national
9 standards will better serve Colorado and our criminal legal system.

10 **SECTION 2.** In Colorado Revised Statutes, 18-3-102, **amend**
11 (1)(d); and **add** (2.5) as follows:

12 **18-3-102. Murder in the first degree.**

13 (1) A person commits the crime of murder in the first degree if:

14 (d) Under circumstances evidencing an attitude of universal
15 malice manifesting extreme indifference to the value of human life
16 generally, ~~he~~ THE PERSON knowingly engages in conduct which creates a
17 grave risk of death to a person, or persons, other than ~~himself~~ THEMSELF,
18 and thereby:

19 (I) Causes the death of ~~another~~; or MORE THAN ONE PERSON;

20 (II) CAUSES THE DEATH OF ONE PERSON AND CAUSES SERIOUS
21 BODILY INJURY TO TWO OR MORE PERSONS BY MEANS OF A DEADLY
22 WEAPON;

23 (III) CAUSES THE DEATH OF A CHILD WHO IS UNDER TWELVE YEARS
24 OLD; OR

25 (IV) CAUSES THE DEATH OF A PEACE OFFICER, EMERGENCY
26 MEDICAL SERVICE PROVIDER, EMERGENCY MEDICAL CARE PROVIDER, OR
27 FIREFIGHTER ENGAGED IN THE PERFORMANCE OF THEIR DUTIES.

1 (2.5) IF THE PERSON'S ACTIONS ARE THE CAUSE OF DEATH OR
2 SERIOUS BODILY INJURY TO MORE THAN ONE INDIVIDUAL PURSUANT TO
3 THE PROVISIONS OF SUBSECTION (1)(d) OF THIS SECTION, EACH INDIVIDUAL
4 INJURED OR KILLED IS A SEPARATE VIOLATION OF THE LAW.

5 **SECTION 3.** In Colorado Revised Statutes, 18-3-103, **amend** (1)
6 and (4) as follows:

7 **18-3-103. Murder in the second degree - definitions.**

8 (1) A person commits the crime of murder in the second degree
9 if:

10 (a) The person knowingly causes the death of a person; ~~or~~

11 (b) Acting either alone or with one or more persons, ~~he or she~~ THE
12 PERSON commits or attempts to commit felony arson, robbery, burglary,
13 kidnapping, sexual assault as prohibited by section 18-3-402, sexual
14 assault in the first or second degree as prohibited by section 18-3-402 or
15 18-3-403, as those sections existed prior to July 1, 2000, or a class 3
16 felony for sexual assault on a child as provided in section 18-3-405 (2),
17 or the felony crime of escape as provided in section 18-8-208, and, in the
18 course of or in furtherance of the crime that ~~he or she~~ THE PERSON is
19 committing or attempting to commit, or of immediate flight therefrom,
20 the death of a person, other than one of the participants, is caused by any
21 participant; OR

22 (c) EXCEPT AS PROVIDED IN SECTION 18-3-102 (1)(d), UNDER
23 CIRCUMSTANCES EVIDENCING AN ATTITUDE OF UNIVERSAL MALICE
24 MANIFESTING EXTREME INDIFFERENCE TO THE VALUE OF HUMAN LIFE
25 GENERALLY, THE PERSON KNOWINGLY ENGAGES IN CONDUCT THAT
26 CREATES A GRAVE RISK OF DEATH TO ANOTHER PERSON OR PERSONS, AND
27 AS A RESULT CAUSES THE DEATH OF ONLY ONE OTHER PERSON.

1 (4) A defendant convicted pursuant to subsection (1) of this
2 section shall be sentenced by the court in accordance with the provisions
3 of section 18-1.3-406; EXCEPT, WHEN THE CRIME CAUSED THE DEATH OF
4 ANOTHER PERSON, THE COURT SHALL SENTENCE A PERSON CONVICTED
5 PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION TO A TERM OF
6 INCARCERATION OF AT LEAST THREE TIMES THE MINIMUM TERM
7 AUTHORIZED IN THE PRESUMPTIVE RANGE AND UP TO TWICE THE MAXIMUM
8 TERM AUTHORIZED IN THE PRESUMPTIVE RANGE.

9 **SECTION 4.** In Colorado Revised Statutes, 18-2-101, **amend** (4);
10 and **add** (7.5) as follows:

11 **18-2-101. Criminal attempt.**

12 (4) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, criminal
13 attempt to commit a class 1 felony is a class 2 felony; criminal attempt to
14 commit a class 2 felony is a class 3 felony; criminal attempt to commit a
15 class 3 felony is a class 4 felony; criminal attempt to commit a class 4
16 felony is a class 5 felony; AND criminal attempt to commit a class 5 or 6
17 felony is a class 6 felony.

18 (7.5) CRIMINAL ATTEMPT TO COMMIT A VIOLATION OF SECTION
19 18-3-102 (1)(d) OR 18-3-103 (1)(c) IS A CLASS 3 FELONY, AND THE COURT
20 SHALL SENTENCE THE PERSON IN ACCORDANCE WITH SECTION 18-1.3-406.

21 **SECTION 5.** In Colorado Revised Statutes, **amend** 18-3-105 as
22 follows:

23 **18-3-105. Criminally negligent homicide.**

24 (1) (a) ~~Any~~ A person who causes the death of another person by
25 ~~conduct amounting to~~ WITH criminal negligence commits criminally
26 negligent homicide. ~~which~~

27 (b) IF A PERSON OPERATES OR DRIVES A MOTOR VEHICLE WITH

1 CRIMINAL NEGLIGENCE AND THE CONDUCT IS THE PROXIMATE CAUSE OF
2 THE DEATH OF ANOTHER PERSON, THE PERSON COMMITS CRIMINALLY
3 NEGLIGENT HOMICIDE.

4 (2) CRIMINALLY NEGLIGENT HOMICIDE is a class 5 felony.

5 SECTION 6. In Colorado Revised Statutes, 42-4-239, repeal
6 (4)(d) as follows:

7 42-4-239. Use of a mobile electronic device - definitions -
8 penalty.

9 (4) (d) If the individual's actions are the proximate cause of death
10 to another, the individual commits a class 1 misdemeanor traffic offense
11 and shall be punished as provided in section 42-4-1701 (3)(a)(II).

12 SECTION 7. In Colorado Revised Statutes, 42-2-125, amend (1)
13 introductory portion and (1)(a) as follows:

14 42-2-125. Mandatory revocation of license and permit.

15 (1) The department shall immediately revoke the license or permit
16 of any A driver or minor driver upon receiving a record showing that the
17 driver has:

18 (a) Been convicted of vehicular homicide or vehicular assault as
19 described in sections 18-3-106 and 18-3-205 C.R.S., or of criminally
20 negligent homicide WHILE OPERATING OR DRIVING A MOTOR VEHICLE, as
21 described in section 18-3-105, C.R.S., while driving a motor vehicle
22 SECTION 18-3-105 (1)(b);

23 SECTION 8. In Colorado Revised Statutes, amend 42-2-128 as
24 follows:

25 42-2-128. Vehicular homicide - criminally negligent homicide
26 while operating a motor vehicle - revocation of license.

27 The department shall revoke the driver's license of any A person

1 convicted of vehicular homicide PURSUANT TO SECTION 18-3-106 OR
2 CRIMINALLY NEGLIGENT HOMICIDE PURSUANT TO SECTION 18-3-105
3 (1)(b), including the driver's license of ~~any~~ A juvenile who has been
4 adjudicated a delinquent upon conduct ~~which~~ THAT would establish the
5 crime of vehicular homicide PURSUANT TO SECTION 18-3-106 OR
6 CRIMINALLY NEGLIGENT HOMICIDE PURSUANT TO SECTION 18-3-105 (1)(b)
7 if committed by an adult.

8 **SECTION 9.** In Colorado Revised Statutes, 42-2-202, **amend**
9 (2)(a)(V) as follows:

10 **42-2-202. Habitual offenders - frequency and type of**
11 **violations.**

12 (2) (a) An habitual offender is a person having three or more
13 convictions of any of the following separate and distinct offenses arising
14 out of separate acts committed within a period of seven years:

15 (V) Vehicular assault or vehicular homicide, or manslaughter or
16 criminally negligent homicide ~~which results from the operation of~~ WHILE
17 OPERATING OR DRIVING a motor vehicle PURSUANT TO SECTION 18-3-105
18 (1)(b), or motor vehicle theft, as ~~such~~ THE offenses are described in title
19 18;

20 **SECTION 10.** In Colorado Revised Statutes, 42-4-1301, **amend**
21 (6)(e) as follows:

22 **42-4-1301. Driving under the influence - driving while**
23 **impaired - driving with excessive alcoholic content - definitions -**
24 **penalties.**

25 (6)(e) **Involuntary blood test - admissibility.** Evidence acquired
26 through an involuntary blood test pursuant to section 42-4-1301.1 (3)
27 ~~shall be~~ IS admissible in ~~any~~ A prosecution for DUI, DUI per se, DWAI,

1 or UDD, and in ~~any~~ A prosecution for criminally negligent homicide
2 WHILE OPERATING OR DRIVING A MOTOR VEHICLE pursuant to ~~section~~
3 ~~18-3-105, C.R.S.~~ SECTION 18-3-105 (1)(b), vehicular homicide pursuant
4 to section 18-3-106 (1)(b), ~~C.R.S.~~, assault in the third degree pursuant to
5 section 18-3-204, ~~C.R.S.~~, or vehicular assault pursuant to section
6 18-3-205 (1)(b). ~~C.R.S.~~

7 SECTION 11. In Colorado Revised Statutes, 42-4-1301.1,
8 amend (3) as follows:

9 42-4-1301.1. Expressed consent for the taking of blood, breath,
10 urine, or saliva sample - testing - rules - definition.

11 (3) ~~Any~~ A person who is required to take and to complete, and to
12 cooperate in the completing of, ~~any~~ A test or tests shall cooperate with the
13 person authorized to obtain specimens of ~~such~~ THE person's blood, breath,
14 saliva, or urine, including the signing of any release or consent forms
15 required by ~~any~~ A person, hospital, clinic, or association authorized to
16 obtain ~~such~~ THE specimens. If ~~such~~ A person does not cooperate with the
17 person, hospital, clinic, or association authorized to obtain ~~such~~ THE
18 specimens, including the signing of any release or consent forms, ~~such~~
19 THE PERSON'S noncooperation ~~shall be~~ IS considered a refusal to submit
20 to testing. ~~No~~ A law enforcement officer shall NOT physically restrain ~~any~~
21 A person for the purpose of obtaining a specimen of ~~such~~ THE person's
22 blood, breath, saliva, or urine for testing except when the officer has
23 probable cause to believe that the person has committed criminally
24 negligent homicide WHILE OPERATING OR DRIVING A MOTOR VEHICLE
25 pursuant to ~~section 18-3-105, C.R.S.~~ SECTION 18-3-105 (1)(b), vehicular
26 homicide pursuant to section 18-3-106 (1)(b), ~~C.R.S.~~, assault in the third
27 degree pursuant to section 18-3-204, ~~C.R.S.~~, or vehicular assault pursuant

1 to section 18-3-205 (1)(b), ~~C.R.S.~~, and the person is refusing to take or to
2 complete, or to cooperate in the completing of, any test or tests, then ~~in~~
3 ~~such event~~, the law enforcement officer may require a blood test.

4 **SECTION 12.** In Colorado Revised Statutes, 18-3-106, **add** (1.5)
5 as follows:

6 **18-3-106. Vehicular homicide - definitions.**

7 (1.5) IF A PERSON OPERATES OR DRIVES A MOTOR VEHICLE IN
8 VIOLATION OF SUBSECTION (1) OF THIS SECTION AND ANY ONE OR MORE OF
9 THE FOLLOWING AGGRAVATING CIRCUMSTANCES ARE PRESENT, THE
10 PERSON COMMITS AGGRAVATED VEHICULAR HOMICIDE AND THE COURT
11 SHALL SENTENCE THE PERSON IN ACCORDANCE WITH SECTION 18-1.3-406
12 FOR THE LEVEL OF OFFENSE COMMITTED IN VIOLATION OF SUBSECTION (1)
13 OF THIS SECTION:

14 (a) THE PERSON COMMITS THE OFFENSE AFTER HAVING TWICE BEEN
15 PREVIOUSLY CONVICTED OF THE OFFENSE OF DRIVING UNDER THE
16 INFLUENCE OR DRIVING WHILE ABILITY IMPAIRED;

17 (b) THE PERSON COMMITS THE OFFENSE AFTER HAVING BEEN
18 PREVIOUSLY CONVICTED OF VEHICULAR HOMICIDE OR VEHICULAR
19 ASSAULT;

20 (c) THE PERSON COMMITS THE OFFENSE WHILE ELUDING OR
21 ATTEMPTING TO ELUDE A PEACE OFFICER IN VIOLATION OF SECTION
22 42-4-1413;

23 (d) THE PERSON COMMITS THE OFFENSE WHILE IN FLIGHT FROM THE
24 COMMISSION OF ANOTHER FELONY OFFENSE, NOT INCLUDING A TRAFFIC
25 OFFENSE; OR

26 (e) THE PERSON COMMITS THE OFFENSE WHILE DRIVING AT A HIGH
27 RATE OF SPEED IN VIOLATION OF SECTION 42-4-1101 (12)(b), CREATING AN

1 IMMEDIATE RISK OF DEATH OR SERIOUS BODILY INJURY TO ANOTHER
2 PERSON.

3

4 **SECTION 13.** In Colorado Revised Statutes, 18-1.3-406, **add**
5 (2)(d) as follows:

6 **18-1.3-406. Mandatory sentences for violent crimes -**
7 **definitions.**

8 (2) (d) "CRIME OF VIOLENCE" ALSO MEANS A VIOLATION OF
9 AGGRAVATED MOTOR VEHICLE HOMICIDE AS DESCRIBED IN SECTION
10 18-3-106 (1.5).

11 **SECTION 14. Effective date - applicability.** This act takes
12 effect July 1, 2026, and applies to offenses committed on or after said
13 date.

14 **SECTION 15. Safety clause.** The general assembly finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety or for appropriations for
17 the support and maintenance of the departments of the state and state
18 institutions.