

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0021.02 Michael Dohr x4347

HOUSE BILL 19-1250

HOUSE SPONSORSHIP

Herod, Arndt, Becker, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Galindo, Garnett, Gonzales-Gutierrez, Hansen, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Tipper, Valdez A., Weissman

SENATE SPONSORSHIP

Danielson,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING SEX OFFENSES COMMITTED BY A PEACE OFFICER, AND, IN**
102 **CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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, sexual assault is a class 4 felony and unlawful sexual contact is a class 1 misdemeanor subject to a modified sentencing range as an extraordinary risk crime. When the offense is committed by a peace officer, the bill classifies sexual assault as a class 3 felony and unlawful sexual contact as a class 4 felony.

The bill creates the offense of unlawful sexual conduct by a peace

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

SENATE
Amended 2nd Reading
April 26, 2019

HOUSE
3rd Reading Unamended
April 16, 2019

HOUSE
Amended 2nd Reading
April 12, 2019

officer. A peace officer commits the offense when he or she knowingly engages in sexual contact, sexual intrusion, or sexual penetration:

- ! When the peace officer encounters the victim for the purpose of law enforcement or in the performance of the officer's duties;
- ! When the peace officer knows at the time of the unlawful sexual conduct that the victim is the subject of an active investigation; or
- ! When the peace officer makes any show of authority in connection with the unlawful sexual conduct.

Unlawful sexual conduct by a peace officer is a class 4 felony when the offense is committed by sexual contact and is a class 3 felony when the offense is committed by sexual intrusion or sexual penetration. An offender convicted of unlawful sexual conduct by a peace officer is required to register as a sex offender. An offender convicted of class 3 felony unlawful sexual conduct by a peace officer is subject to lifetime supervision.

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

2

3 **SECTION 1.** In Colorado Revised Statutes, **add** 18-3-405.7 as
4 follows:

5 **18-3-405.7. Unlawful sexual conduct by a peace officer -**
6 **definition.** (1) A PEACE OFFICER COMMITS UNLAWFUL SEXUAL CONDUCT
7 BY A PEACE OFFICER BY KNOWINGLY ENGAGING IN SEXUAL CONTACT,
8 SEXUAL INTRUSION, OR SEXUAL PENETRATION, UNDER ANY OF THE
9 FOLLOWING CIRCUMSTANCES:

10 (a) IN THE SAME ENCOUNTER, THE PEACE OFFICER CONTACTS THE
11 VICTIM FOR THE PURPOSE OF LAW ENFORCEMENT OR **CONTACTS THE**
12 **VICTIM IN THE EXERCISE OF THE** OFFICER'S EMPLOYMENT ACTIVITIES OR
13 DUTIES;

14 **(b) THE PEACE OFFICER KNOWS THAT THE VICTIM IS, OR CAUSES**
15 **THE VICTIM TO BELIEVE THAT HE OR SHE IS, THE SUBJECT OF AN ACTIVE**
16 **INVESTIGATION, AND THE PEACE OFFICER USES THAT KNOWLEDGE TO**

1 FURTHER THE SEXUAL CONTACT, INTRUSION, OR PENETRATION; OR

2 (c) IN FURTHERANCE OF SEXUAL CONTACT, INTRUSION, OR
3 PENETRATION, THE PEACE OFFICER MAKES ANY SHOW OF REAL OR
4 APPARENT AUTHORITY.

5 (2) (a) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER UNDER
6 CIRCUMSTANCES WHEN THE VICTIM IS SUBJECT TO SEXUAL CONTACT IS A
7 CLASS 4 FELONY.

8 (b) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER UNDER
9 CIRCUMSTANCES IN WHICH SEXUAL INTRUSION OR PENETRATION IS
10 INFLICTED ON THE VICTIM IS A CLASS 3 FELONY.

11 (3) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
12 OTHERWISE REQUIRES, "PEACE OFFICER" MEANS ANY PERSON DESCRIBED
13 IN ARTICLE 2.5 OF TITLE 16.

14 (4) IT IS NOT A DEFENSE TO THIS SECTION THAT THE VICTIM
15 CONSENTED TO THE SEXUAL CONTACT, INTRUSION, OR PENETRATION.

16 (5) THIS SECTION DOES NOT APPLY TO SEXUAL CONTACT OR
17 INTRUSION THAT OCCURS INCIDENT TO A LAWFUL SEARCH.

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

20 **16-11.7-102. Definitions.** As used in this ~~article~~ ARTICLE 11.7,
21 unless the context otherwise requires:

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

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

27 (y) Invasion of privacy for sexual gratification, as described in

1 section 18-3-405.6; ~~C.R.S.~~ OR

2 (z) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER, IN
3 VIOLATION OF SECTION 18-3-405.7.

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

6 **16-22-102. Definitions.** As used in this article 22, unless the
7 context otherwise requires:

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

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

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

15 (cc) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER, IN
16 VIOLATION OF SECTION 18-3-405.7.

17 **SECTION 4.** In Colorado Revised Statutes, 18-1.3-1003, **amend**
18 (5)(a)(XI) and (5)(a)(XII); and **add** (5)(a)(XIII) as follows:

19 **18-1.3-1003. Definitions.** As used in this part 10, unless the
20 context otherwise requires:

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

22 (XI) Class 4 felony internet luring of a child, in violation of
23 section 18-3-306 (3); or

24 (XII) Internet sexual exploitation of a child, in violation of ~~section~~
25 ~~18-3-405.4.~~ SECTION 18-3-405.4; OR

26 (XIII) CLASS 3 FELONY UNLAWFUL SEXUAL CONDUCT BY A PEACE
27 OFFICER, IN VIOLATION OF SECTION 18-3-405.7.

1 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-1007, **amend**
2 (1)(a)(III) as follows:

3 **18-1.3-1007. Probation - intensive supervision program.**

4 (1) (a) The judicial department shall establish an intensive supervision
5 probation program for sex offenders sentenced to probation pursuant to
6 this part 10. In addition, the court shall require a person, as a condition of
7 probation, to participate in the intensive supervision probation program
8 established pursuant to this section if the person is convicted of one of the
9 following offenses and sentenced to probation:

10 (III) Any of the offenses specified in section 16-22-102 (9)(j),
11 (9)(k), (9)(l), (9)(n), (9)(o), (9)(p), (9)(q), (9)(r), ~~or~~ (9)(s), ~~C.R.S.~~ OR
12 (9)(cc);

13 **SECTION 6.** In Colorado Revised Statutes, **add** 17-18-127 as
14 follows:

15 **17-18-127. Appropriation to comply with section 2-2-703 -**
16 **H.B. 19-1250 - repeal.** (1) PURSUANT TO SECTION 2-2-703, THE
17 FOLLOWING STATUTORY APPROPRIATIONS ARE MADE IN ORDER TO
18 IMPLEMENT HOUSE BILL 19-1250, ENACTED IN 2019:

19 (a) FOR THE 2019-20 STATE FISCAL YEAR, ONE HUNDRED
20 SEVENTY-EIGHT THOUSAND FOUR HUNDRED SEVENTY-ONE DOLLARS IS
21 APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
22 SECTION 24-75-302, TO THE CORRECTIONS EXPANSION RESERVE FUND
23 CREATED IN SECTION 17-1-116.

24 (b) FOR THE 2020-21 STATE FISCAL YEAR, THIRTY-NINE THOUSAND
25 SEVEN HUNDRED ONE DOLLARS IS APPROPRIATED TO THE DEPARTMENT
26 FROM THE GENERAL FUND.

27 (c) FOR THE 2021-22 STATE FISCAL YEAR, FORTY-THREE THOUSAND

1 NINE HUNDRED SIXTEEN DOLLARS IS APPROPRIATED TO THE DEPARTMENT
2 FROM THE GENERAL FUND.

3 (d) FOR THE 2022-23 STATE FISCAL YEAR, FORTY-THREE THOUSAND
4 THREE HUNDRED ELEVEN DOLLARS IS APPROPRIATED TO THE DEPARTMENT
5 FROM THE GENERAL FUND.

6 (e) FOR THE 2023-24 STATE FISCAL YEAR, FORTY-ONE THOUSAND
7 FOUR HUNDRED NINETY-ONE DOLLARS IS APPROPRIATED TO THE
8 DEPARTMENT FROM THE GENERAL FUND.

9 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

10 **SECTION 7.** In Colorado Revised Statutes, 24-75-302, **add**
11 (2)(gg) as follows:

12 **24-75-302. Capital construction fund - capital assessment fees**
13 **- calculation - information technology capital account - repeal.**

14 (2) The controller shall transfer a sum as specified in this subsection (2)
15 from the general fund to the capital construction fund as moneys become
16 available in the general fund during the fiscal year beginning on July 1 of
17 the fiscal year in which the transfer is made. Transfers between funds
18 pursuant to this subsection (2) are not appropriations subject to the
19 limitations of section 24-75-201.1. The amounts transferred pursuant to
20 this subsection (2) are as follows:

21 (gg) FOR THE 2019-20 FISCAL YEAR, ONE HUNDRED
22 SEVENTY-EIGHT THOUSAND FOUR HUNDRED SEVENTY-ONE DOLLARS
23 PURSUANT TO H.B. 19-1250, ENACTED IN 2019.

24 **SECTION 8. Effective date - applicability.** This act takes effect
25 July 1, 2019, and applies to offenses committed on or after said date.

26 **SECTION 9. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.