

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

**PREAMENDED**

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

LLS NO. 19-0021.02 Michael Dohr x4347

**HOUSE BILL 19-1250**

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**HOUSE SPONSORSHIP**

**Herod,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING SEX OFFENSES COMMITTED BY A PEACE OFFICER.**

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

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.

- ! 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.

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

2           **SECTION 1.** In Colorado Revised Statutes, 18-3-402, **amend**  
 3 (4)(c) and (4)(d); and **add** (4)(f) as follows:

4           **18-3-402. Sexual assault.** (4) Sexual assault is a class 3 felony  
 5 if it is attended by any one or more of the following circumstances:

6           (c) The actor causes submission of the victim by threatening to  
 7 retaliate in the future against the victim, or any other person, and the  
 8 victim reasonably believes that the actor will execute this threat. As used  
 9 in this ~~paragraph (c)~~ SUBSECTION (4)(c), "to retaliate" includes threats of  
 10 kidnapping, death, serious bodily injury, or extreme pain; ~~or~~

11           (d) The actor has substantially impaired the victim's power to  
 12 appraise or control the victim's conduct by employing, without the  
 13 victim's consent, any drug, intoxicant, or other means for the purpose of  
 14 causing ~~submission~~. SUBMISSION; OR

15           (f) THE ACTOR IS A PEACE OFFICER, AS DESCRIBED IN ARTICLE 2.5  
 16 OF TITLE 16.

17           **SECTION 2.** In Colorado Revised Statutes, 18-3-404, **amend**

1 (2)(b) as follows:

2 **18-3-404. Unlawful sexual contact.** (2) (b) Notwithstanding the  
3 provisions of ~~paragraph (a) of this subsection (2)~~ SUBSECTION (2)(a) OF  
4 THIS SECTION, unlawful sexual contact is a class 4 felony if the actor  
5 compels the victim to submit by use of such force, intimidation, or threat  
6 as specified in section 18-3-402 (4)(a), (4)(b), or (4)(c); ~~or~~ if the actor  
7 engages in the conduct described in ~~paragraph (g) of subsection (1)~~  
8 SUBSECTION (1)(g) of this section or subsection (1.5) of this section; OR  
9 IF THE ACTOR IS A PEACE OFFICER, AS DESCRIBED IN ARTICLE 2.5 OF TITLE  
10 16.

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

13 **18-3-405.7. Unlawful sexual conduct by a peace officer -**  
14 **definition.** (1) A PEACE OFFICER COMMITS UNLAWFUL SEXUAL CONDUCT  
15 BY A PEACE OFFICER BY KNOWINGLY ENGAGING IN SEXUAL CONTACT,  
16 SEXUAL INTRUSION, OR SEXUAL PENETRATION, UNDER ANY OF THE  
17 FOLLOWING CIRCUMSTANCES:

18 (a) IN THE SAME ENCOUNTER, THE PEACE OFFICER CONTACTS THE  
19 VICTIM FOR THE PURPOSE OF LAW ENFORCEMENT OR ~~CONTACTS THE~~  
20 ~~VICTIM IN THE EXERCISE OF THE~~ OFFICER'S EMPLOYMENT ACTIVITIES OR  
21 DUTIES;

22 (b) AT THE TIME OF THE SEXUAL CONTACT, INTRUSION, OR  
23 PENETRATION, THE PEACE OFFICER KNOWS THAT THE VICTIM IS THE  
24 SUBJECT OF AN ACTIVE INVESTIGATION; OR

25 (c) ~~IN FURTHERANCE OF SEXUAL CONTACT, INTRUSION, OR~~  
26 ~~PENETRATION, THE PEACE OFFICER MAKES ANY SHOW OF REAL OR~~  
27 ~~APPARENT AUTHORITY.~~

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

4 (b) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER UNDER  
5 CIRCUMSTANCES IN WHICH SEXUAL INTRUSION OR PENETRATION IS  
6 INFLECTED ON THE VICTIM IS A CLASS 3 FELONY.

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

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

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

14 **SECTION 4.** In Colorado Revised Statutes, 16-11.7-102, **amend**  
15 the introductory portion, (3)(x), and (3)(y); and **add** (3)(z) as follows:

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

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

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

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

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

27 **SECTION 5.** In Colorado Revised Statutes, 16-22-102, **amend**

1 (9)(aa) and (9)(bb); and **add** (9)(cc) as follows:

2 **16-22-102. Definitions.** As used in this article 22, unless the  
3 context otherwise requires:

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

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

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

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

13 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-1003, **amend**  
14 (5)(a)(XI) and (5)(a)(XII); and **add** (5)(a)(XIII) as follows:

15 **18-1.3-1003. Definitions.** As used in this part 10, unless the  
16 context otherwise requires:

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

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

20 (XII) Internet sexual exploitation of a child, in violation of ~~section~~  
21 ~~18-3-405.4.~~ SECTION 18-3-405.4; OR

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

24 **SECTION 7.** In Colorado Revised Statutes, 18-1.3-1007, **amend**  
25 (1)(a)(III) as follows:

26 **18-1.3-1007. Probation - intensive supervision program.**

27 (1) (a) The judicial department shall establish an intensive supervision

1 probation program for sex offenders sentenced to probation pursuant to  
2 this part 10. In addition, the court shall require a person, as a condition of  
3 probation, to participate in the intensive supervision probation program  
4 established pursuant to this section if the person is convicted of one of the  
5 following offenses and sentenced to probation:

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

9 **SECTION 8. Potential appropriation.** Pursuant to section  
10 2-2-703, C.R.S., any bill that results in a net increase in periods of  
11 imprisonment in state correctional facilities must include an appropriation  
12 of money that is sufficient to cover any increased capital construction, any  
13 operational costs, and increased parole costs that are the result of the bill  
14 for the department of corrections in each of the first five years following  
15 the effective date of the bill. Because this act may increase periods of  
16 imprisonment, this act may require a five-year appropriation.

17 **SECTION 9. Effective date - applicability.** This act takes effect  
18 July 1, 2019, and applies to offenses committed on or after said date.

19 **SECTION 10. Safety clause.** The general assembly hereby finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, and safety.