

CHAPTER 287

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 19-1250

BY REPRESENTATIVE(S) Herod, Arndt, 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, Becker, Froelich, Sandridge, Titone;

also SENATOR(S) Danielson, Bridges, Gardner, Hill, Holbert, Lundeen, Moreno, Pettersen, Priola, Smallwood, Story, Tate, Todd, Winter, Woodward, Garcia.

AN ACT

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

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

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

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

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

(b) THE PEACE OFFICER KNOWS THAT THE VICTIM IS, OR CAUSES THE VICTIM TO BELIEVE THAT HE OR SHE IS, THE SUBJECT OF AN ACTIVE INVESTIGATION, AND THE PEACE OFFICER USES THAT KNOWLEDGE TO FURTHER THE SEXUAL CONTACT, INTRUSION, OR PENETRATION; OR

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

(2) (a) UNLAWFUL SEXUAL CONDUCT BY A PEACE OFFICER UNDER

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

CIRCUMSTANCES WHEN THE VICTIM IS SUBJECT TO SEXUAL CONTACT IS A CLASS 4 FELONY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18-1.3-1007. Probation - intensive supervision program. (1) (a) The judicial department shall establish an intensive supervision probation program for sex offenders sentenced to probation pursuant to this part 10. In addition, the court shall require a person, as a condition of probation, to participate in the intensive supervision probation program established pursuant to this section if the person is convicted of one of the following offenses and sentenced to probation:

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

SECTION 6. In Colorado Revised Statutes, **add** 17-18-128 as follows:

17-18-128. Appropriation to comply with section 2-2-703 - H.B. 19-1250 - repeal. (1) PURSUANT TO SECTION 2-2-703, THE FOLLOWING STATUTORY APPROPRIATIONS ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 19-1250, ENACTED IN 2019:

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

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

(c) FOR THE 2021-22 STATE FISCAL YEAR, FORTY-THREE THOUSAND NINE HUNDRED SIXTEEN DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE

GENERAL FUND.

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

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

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

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

24-75-302. Capital construction fund - capital assessment fees - calculation - information technology capital account - repeal. (2) The controller shall transfer a sum as specified in this subsection (2) from the general fund to the capital construction fund as money becomes available in the general fund during the fiscal year beginning on July 1 of the fiscal year in which the transfer is made. Transfers between funds pursuant to this subsection (2) are not appropriations subject to the limitations of section 24-75-201.1. The amounts transferred pursuant to this subsection (2) are as follows:

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

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

SECTION 9. 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 28, 2019