

CHAPTER 150

CRIMINAL LAW AND PROCEDURE

SENATE BILL 93-111

BY SENATOR Hopper;
also REPRESENTATIVE Tucker.

AN ACT

CONCERNING PROCEDURAL CHANGES RELATED TO THE PROSECUTION OF CRIMINAL LAWS.

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

SECTION 1. 13-25-129 (2), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-25-129. Statements of child victim of unlawful sexual offense against a child or of child abuse - hearsay exception. (2) If a statement is admitted pursuant to this section, the court shall instruct the jury IN THE FINAL WRITTEN INSTRUCTIONS THAT DURING THE PROCEEDING THE JURY HEARD EVIDENCE REPEATING A CHILD'S OUT-OF-COURT STATEMENT AND that it is for the jury to determine the weight and credit to be given the statement and that, in making the determination, ~~it~~ THE JURY shall consider the age and maturity of the child, the nature of the statement, the circumstances under which the statement was made, and any other relevant factor.

SECTION 2. 13-71-115 (1), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-71-115. Juror questionnaires. (1) On or before the first day of the term of trial or grand juror service, each juror shall be given a juror questionnaire requesting the following information about the juror: Name, sex, DATE OF BIRTH, age, residence, and marital status; the number and ages of children; educational level and occupation; whether the juror is regularly employed, self-employed, or unemployed; spouse's occupation; previous juror service; present or past involvement as a party or witness in a civil or criminal proceeding; and such other information as the jury commissioner deems appropriate after consulting with the judges in the judicial district. The questionnaire shall contain a declaration by the juror that the information supplied is,

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

to the best of the juror's knowledge, true and an acknowledgment that a willful misrepresentation of a material fact is a class 3 misdemeanor punishable as provided in section 18-1-106, C.R.S. Immediately below the declaration, the questionnaire shall contain a place for the signature of the juror. A notice that the completed questionnaire is not a public record shall appear prominently on its face.

SECTION 3. Article 72 of title 13, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

13-72-108. Sealing of indictment. THE COURT, UPON MOTION OF THE DISTRICT ATTORNEY, SHALL ORDER THE INDICTMENT TO BE SEALED AND NO PERSON MAY DISCLOSE THE EXISTENCE OF THE INDICTMENT UNTIL THE DEFENDANT IS IN CUSTODY OR HAS BEEN ADMITTED TO BAIL EXCEPT WHEN NECESSARY FOR THE ISSUANCE OR EXECUTION OF A WARRANT OR SUMMONS.

13-72-109. Impaneling of judicial district grand jury - county grand jury unnecessary. IF A JUDICIAL DISTRICT GRAND JURY IS IMPANELED PURSUANT TO ARTICLE 74 OF THIS TITLE, THERE IS NO NEED TO IMPANEL A COUNTY GRAND JURY PURSUANT TO THIS ARTICLE.

SECTION 4. 13-73-107, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-73-107. Return of indictment or presentment - designation of venue - consolidation of indictments - sealing of indictment. (1) Any indictment by a state grand jury shall be returned to the chief judge without any designation of venue. Thereupon, the judge shall, by order, designate the county of venue for the purpose of trial. The judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a state grand jury and fix venue for trial.

(2) THE COURT, UPON MOTION OF THE ATTORNEY GENERAL, SHALL ORDER THE INDICTMENT TO BE SEALED AND NO PERSON MAY DISCLOSE THE EXISTENCE OF THE INDICTMENT UNTIL THE DEFENDANT IS IN CUSTODY OR HAS BEEN ADMITTED TO BAIL EXCEPT WHEN NECESSARY FOR THE ISSUANCE OR EXECUTION OF A WARRANT OR SUMMONS.

SECTION 5. 13-74-101, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

13-74-101. Petition for impaneling - determination by chief judge. When the district attorney deems it to be in the public interest to convene a grand jury which has jurisdiction extending beyond the boundaries of any single county, he may petition the chief judge of any district court for an order in accordance with the provisions of this article. Said chief judge shall, for good cause shown, order the impaneling of a judicial district grand jury which shall have judicial districtwide jurisdiction. IF A JUDICIAL DISTRICT GRAND JURY IS IMPANELED PURSUANT TO THIS ARTICLE, THERE IS NO NEED TO IMPANEL A COUNTY GRAND JURY PURSUANT TO ARTICLE 72 OF THIS TITLE.

SECTION 6. 13-74-107, Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

13-74-107. Return of indictment - designation of venue - consolidation of indictments - sealing of indictments. (1) Any indictment by a judicial district grand jury shall be returned to the chief judge without any designation of venue. Thereupon, the judge shall, by order, designate the county of venue for the purpose of trial. The judge may, by order, direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a judicial district grand jury and fix venue for trial.

(2) THE COURT, UPON MOTION OF THE DISTRICT ATTORNEY, SHALL ORDER THE INDICTMENT TO BE SEALED AND NO PERSON MAY DISCLOSE THE EXISTENCE OF THE INDICTMENT UNTIL THE DEFENDANT IS IN CUSTODY OR HAS BEEN ADMITTED TO BAIL EXCEPT WHEN NECESSARY FOR THE ISSUANCE OR EXECUTION OF A WARRANT OR SUMMONS.

SECTION 7. 16-7-102, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

16-7-102. Required notice of defense of alibi. ~~The prosecuting attorney may serve upon the defendant within a reasonable time before the trial a written notice specifying with reasonable certainty the contention of the prosecuting attorney as to the time when and the place where the defendant committed the offense charged. In that event the defendant, If he~~ THE DEFENDANT intends to introduce evidence that ~~he~~ THE DEFENDANT was at a place other than ~~that specified~~; THE LOCATION OF THE OFFENSE, THE DEFENDANT shall serve upon the prosecuting attorney ~~within a reasonable time after service of the prosecuting attorney's notice~~; AS SOON AS PRACTICABLE, BUT NOT LATER THAN THIRTY DAYS BEFORE TRIAL, a statement in writing specifying the place where ~~he~~ THE DEFENDANT claims to have been and the names and addresses of the witnesses ~~he~~ THE DEFENDANT will call to support the defense of alibi. ~~Within a reasonable time following service upon him of the statement specifying the place where the defendant claims to have been and the names and addresses of the witnesses he will call to support the defense of alibi~~; UPON RECEIVING THE DEFENDANT'S STATEMENT, the prosecuting attorney shall ~~serve upon~~ ADVISE the defendant ~~a statement specifying~~ OF the names and addresses of the ANY ADDITIONAL witnesses ~~he will call in rebuttal of the testimony offered by the alibi witnesses named in the statement filed by the defendant~~. WHO MAY BE CALLED TO REFUTE SUCH ALIBI AS SOON AS PRACTICABLE AFTER THE NAMES OF SUCH WITNESSES BECOME KNOWN. Neither the prosecuting attorney nor the defendant shall be permitted at the trial to introduce evidence inconsistent with ~~his~~ THE specification STATEMENT unless the court for good cause and upon just terms permits the specification STATEMENT to be amended. If ~~either the defendant or the prosecuting attorney fails to file and cause to be served the statement containing the names and addresses of alibi witnesses or rebuttal witnesses~~ MAKE THE SPECIFICATION required by this section, the court shall exclude evidence offered in support of the defense of alibi ~~or in rebuttal thereof, as the case may be~~; unless the court finds upon good cause shown that such evidence should be admitted in the interest of justice.

SECTION 8. 16-19-108, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

16-19-108. Issue of governor's warrant. If the governor decides that the demand should be complied with, ~~he~~ THE GOVERNOR shall sign a warrant of arrest, which shall be sealed with the state seal and be directed to any peace officer or other person whom ~~he~~ THE GOVERNOR may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance. ANY ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED FACSIMILE OF A GOVERNOR'S WARRANT SHALL BE TREATED AS AN ORIGINAL DOCUMENT.

SECTION 9. Effective date - applicability. This act shall take effect July 1, 1993, and shall apply to offenses committed on or after said date.

SECTION 10. 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: April 26, 1993