

## CHAPTER 259

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**CRIMINAL LAW AND PROCEDURE**

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SENATE BILL 94-089

BY SENATOR Ruddick;  
also REPRESENTATIVES Epps, Friednash, George, Hagedorn, Allen, Kerns, Kreutz, Morrison, Nichol, and Pierson.

**AN ACT****CONCERNING CONSEQUENCES FOR THE COMMISSION OF CERTAIN CRIMES.***Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 13-10-113 (5), Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended to read:

**13-10-113. Fines and penalties.** (5) Notwithstanding any other provision of law, a child, as defined in section 19-1-103 (4), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by a municipal court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the department of institutions or a temporary holding facility operated by or under contract with a municipal government which shall receive and provide care for such child. A municipal court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to section 19-2-204, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the department of institutions. IN IMPOSING ANY JAIL SENTENCE UPON A JUVENILE FOR VIOLATING ANY MUNICIPAL ORDINANCE WHEN THE MUNICIPAL COURT HAS JURISDICTION OVER THE JUVENILE PURSUANT TO SECTION 19-2-102 (1) (a) (II), C.R.S., A MUNICIPAL COURT DOES NOT HAVE THE AUTHORITY TO ORDER A CHILD UNDER EIGHTEEN YEARS OF AGE TO A JUVENILE DETENTION FACILITY OPERATED OR CONTRACTED BY THE DEPARTMENT OF INSTITUTIONS.

**SECTION 2.** 18-4-509 (2), Colorado Revised Statutes, 1986 Repl. Vol., as

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

amended, is amended to read:

**18-4-509. Defacing property.** (2) Any person who defaces or causes, aids in, or permits the defacing of public or private property without the consent of the owner by painting, drawing, or writing, by use of paint, spray paint, or ink, or by any other method of defacement commits ~~an unclassified~~ A CLASS 2 misdemeanor. Any person convicted of defacing property pursuant to this subsection (2) shall be ordered by the court to ~~make~~ personally MAKE repairs to any property damaged, or properties similarly damaged, if possible.

**SECTION 3.** The introductory portion to 18-9-111 (1) and 18-9-111 (1) (g) and (1) (h), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**18-9-111. Harassment - stalking.** (1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he OR SHE:

(g) Makes repeated communications at inconvenient hours ~~or in offensively coarse language~~ THAT INVADe THE PRIVACY OF ANOTHER AND INTERFERE IN THE USE AND ENJOYMENT OF ANOTHER'S HOME OR PRIVATE RESIDENCE OR OTHER PRIVATE PROPERTY; or

(h) Repeatedly insults, taunts, ~~or~~ challenges, OR MAKES COMMUNICATIONS IN OFFENSIVELY COARSE LANGUAGE TO, another in a manner likely to provoke a violent or disorderly response.

**SECTION 4.** 19-2-102 (1) (a) (II), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-102. Jurisdiction.** (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any juvenile ten years of age or older who has violated:

(II) Any county or municipal ordinance except traffic ordinances, the penalty for which may be a jail sentence OF MORE THAN TEN DAYS; or

**SECTION 5.** 19-2-806 (3) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**19-2-806. Transfer proceedings.** (3) (b) In considering whether or not to waive juvenile court jurisdiction over the juvenile, the juvenile court shall consider the following factors:

(I) The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities;

(II) Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(III) Whether the alleged offense was against persons or property, greater weight being given to offenses against persons;

(IV) The maturity of the juvenile as determined by considerations of ~~his~~ THE JUVENILE'S home, environment, emotional attitude, and pattern of living;

(V) The record and previous history of the juvenile;

(VI) The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile court;

(VII) The interest of the community in the imposition of a punishment commensurate with the gravity of the offense;

(VIII) The impact of the offense on the victim;

(IX) That the juvenile was twice previously adjudicated a delinquent juvenile for delinquent acts which constitute felonies;

(X) That the juvenile was previously adjudicated a juvenile delinquent for a delinquent act which constitutes a crime of violence, as defined in section 16-11-309, C.R.S.;

(XI) That the juvenile was previously committed to the department of institutions following an adjudication for a delinquent act which constitutes a felony;

(XII) That the juvenile is sixteen years of age or older at the time of the offense and the present act constitutes a crime of violence, as defined in section 16-11-309, C.R.S.; ~~and~~

(XIII) That the juvenile is sixteen years of age or older at the time of the offense and has been twice previously adjudicated a juvenile delinquent for delinquent acts against property which constitute felonies; AND

(XIV) THAT THE JUVENILE USED, OR POSSESSED AND THREATENED THE USE OF, A DEADLY WEAPON IN THE COMMISSION OF A DELINQUENT ACT.

**SECTION 6.** 18-12-108, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**18-12-108. Possession of weapons by previous offenders.** (1) A PERSON COMMITS THE CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS OFFENDER IF THE PERSON KNOWINGLY POSSESSES, USES, OR CARRIES UPON HIS OR HER PERSON A FIREARM AS DESCRIBED IN SECTION 18-1-901 (3) (h) OR ANY OTHER WEAPON THAT IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE SUBSEQUENT TO THE PERSON'S CONVICTION FOR A FELONY, OR SUBSEQUENT TO THE PERSON'S CONVICTION FOR ATTEMPT OR CONSPIRACY TO COMMIT A FELONY, UNDER COLORADO OR ANY OTHER STATE'S LAW OR UNDER FEDERAL LAW.

(2) (a) EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPHS (b) and (c) OF THIS SUBSECTION (2), A PERSON COMMITS A CLASS 1 MISDEMEANOR IF THE PERSON VIOLATES SUBSECTION (1) OF THIS SECTION.

(b) A PERSON COMMITS A CLASS 5 FELONY, AS PROVIDED BY SECTION 18-12-102,

IF THE PERSON VIOLATES SUBSECTION (1) OF THIS SECTION AND THE WEAPON IS A DANGEROUS WEAPON, AS DEFINED IN SECTION 18-12-102 (1).

(c) A PERSON COMMITS A CLASS 5 FELONY IF THE PERSON VIOLATES SUBSECTION (1) OF THIS SECTION AND THE PERSON'S PREVIOUS CONVICTION WAS FOR BURGLARY, ARSON, OR ANY FELONY INVOLVING THE USE OF FORCE OR THE USE OF A DEADLY WEAPON AND THE VIOLATION OF SUBSECTION (1) OF THIS SECTION OCCURS AS FOLLOWS:

(I) FROM THE DATE OF CONVICTION TO TEN YEARS AFTER THE DATE OF CONVICTION, IF THE PERSON WAS NOT INCARCERATED; OR

(II) FROM THE DATE OF CONVICTION TO TEN YEARS AFTER THE DATE OF RELEASE FROM CONFINEMENT, IF SUCH PERSON WAS INCARCERATED OR, IF SUBJECT TO SUPERVISION IMPOSED AS A RESULT OF CONVICTION, TEN YEARS AFTER THE DATE OF RELEASE FROM SUPERVISION.

(3) A PERSON COMMITS THE CRIME OF POSSESSION OF A WEAPON BY A PREVIOUS OFFENDER IF THE PERSON KNOWINGLY POSSESSES, USES, OR CARRIES UPON HIS OR HER PERSON A FIREARM AS DESCRIBED IN SECTION 18-1-901 (3) (h) OR ANY OTHER WEAPON THAT IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE SUBSEQUENT TO THE PERSON'S ADJUDICATION FOR AN ACT WHICH, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A FELONY, OR SUBSEQUENT TO THE PERSON'S ADJUDICATION FOR ATTEMPT OR CONSPIRACY TO COMMIT A FELONY, UNDER COLORADO OR ANY OTHER STATE'S LAW OR UNDER FEDERAL LAW.

(4) (a) EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (b) OF THIS SUBSECTION (4), A PERSON COMMITS A CLASS 1 MISDEMEANOR IF THE PERSON VIOLATES SUBSECTION (3) OF THIS SECTION.

(b) A PERSON COMMITS A CLASS 5 FELONY, AS PROVIDED BY SECTION 18-12-102, IF THE PERSON VIOLATES SUBSECTION (1) OF THIS SECTION AND THE WEAPON IS A DANGEROUS WEAPON, AS DEFINED IN SECTION 18-12-102 (1).

(c) A PERSON COMMITS A CLASS 5 FELONY IF THE PERSON COMMITS THE CONDUCT DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND THE PERSON'S PREVIOUS ADJUDICATION WAS BASED ON AN ACT THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE BURGLARY, ARSON, OR ANY FELONY INVOLVING THE USE OF FORCE OR THE USE OF A DEADLY WEAPON AND THE VIOLATION OF SUBSECTION (3) OF THIS SECTION OCCURS AS FOLLOWS:

(I) FROM THE DATE OF ADJUDICATION TO TEN YEARS AFTER THE DATE OF ADJUDICATION, IF THE PERSON WAS NOT COMMITTED TO THE DEPARTMENT OF INSTITUTIONS, OR ON OR AFTER JULY 1, 1994, TO THE DEPARTMENT OF HUMAN SERVICES; OR

(II) FROM THE DATE OF ADJUDICATION TO TEN YEARS AFTER THE DATE OF RELEASE FROM COMMITMENT, IF SUCH PERSON WAS COMMITTED TO THE DEPARTMENT OF INSTITUTIONS, OR ON OR AFTER JULY 1, 1994, TO THE DEPARTMENT OF HUMAN SERVICES OR, IF SUBJECT TO SUPERVISION IMPOSED AS A RESULT OF AN ADJUDICATION, TEN YEARS AFTER THE DATE OF RELEASE FROM SUPERVISION.

(5) A SECOND OR SUBSEQUENT OFFENSE UNDER PARAGRAPHS (b) AND (c) OF SUBSECTION (2) AND PARAGRAPHS (b) AND (c) OF SUBSECTION (4) OF THIS SECTION IS A CLASS 4 FELONY.

**SECTION 7. Effective date - applicability.** This act shall take effect July 1, 1994, and shall apply to offenses committed on or after said date.

**SECTION 8. 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 31, 1994