

CHAPTER 325

CRIMINAL LAW AND PROCEDURE

SENATE BILL 94-051

BY SENATORS Lacy, Johnson, Mares, Mendez, L. Powers, Ruddick, and Tanner;
also REPRESENTATIVES Allen, Armstrong, Blue, DeGette, Epps, Fleming, Greenwood, Hagedorn, Keller, Kerns, Lawrence, Nichol,
Reeser, and Tucker.

AN ACT

CONCERNING PROSECUTIONS INVOLVING DOMESTIC VIOLENCE.

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

SECTION 1. 18-6-800.3 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-6-800.3. Definitions. As used in this part 8, unless the context otherwise requires:

(1) "Domestic violence" means the infliction or threat of infliction of any bodily injury or harmful physical contact or the destruction of property or threat thereof OR THE INVASION OF HOME OR PROPERTY OR THREAT THEREOF as a method of coercion, control, revenge, or punishment upon a person with whom the actor is involved in an intimate relationship.

SECTION 2. Part 8 of article 6 of title 18, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

18-6-801.5. Domestic violence - evidence of similar transactions. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT DOMESTIC VIOLENCE IS FREQUENTLY CYCLICAL IN NATURE, INVOLVES PATTERNS OF ABUSE, AND CAN CONSIST OF HARM WITH ESCALATING LEVELS OF SERIOUSNESS. THE GENERAL ASSEMBLY THEREFORE DECLARES THAT EVIDENCE OF SIMILAR TRANSACTIONS CAN BE HELPFUL AND IS NECESSARY IN SOME SITUATIONS IN PROSECUTING CRIMES INVOLVING DOMESTIC VIOLENCE.

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

(2) IN CRIMINAL PROSECUTIONS INVOLVING DOMESTIC VIOLENCE IN WHICH THE DEFENDANT AND THE VICTIM NAMED IN THE INFORMATION HAVE ENGAGED IN AN INTIMATE RELATIONSHIP AS OF THE TIME ALLEGED IN THE INFORMATION, EVIDENCE OF ANY OTHER ACTS OF DOMESTIC VIOLENCE BETWEEN THE DEFENDANT AND THE VICTIM CONSTITUTE OTHER ACTS OR TRANSACTIONS FOR THE PURPOSES OF THIS SECTION AND THE COURT MAY AUTHORIZE THE ADMISSION OF EVIDENCE AS PROVIDED IN SUBSECTION (3) OF THIS SECTION.

(3) THE PROPONENT OF EVIDENCE OF OTHER ACTS OR TRANSACTIONS UNDER THIS SECTION SHALL ADVISE THE TRIAL COURT BY OFFER OF PROOF OF SUCH EVIDENCE AND SHALL SPECIFY WHETHER THE EVIDENCE IS OFFERED TO SHOW A COMMON PLAN, SCHEME, DESIGN, IDENTITY, MODUS OPERANDI, MOTIVE, OR GUILTY KNOWLEDGE OR FOR SOME OTHER PURPOSE.

(4) UPON THE OFFER OF PROOF UNDER SUBSECTION (3) OF THIS SECTION, THE TRIAL COURT SHALL DETERMINE WHETHER THE PROBATIVE VALUE OF THE EVIDENCE OF SIMILAR ACTS OR TRANSACTIONS IS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE TO THE DEFENDANT, CONFUSION OF THE ISSUES, OR MISLEADING OF THE JURY IF THE EVIDENCE IS ALLOWED OR BY CONSIDERATIONS OF UNDUE DELAY, WASTE OF TIME, OR NEEDLESS PRESENTATION OF CUMULATIVE EVIDENCE.

(5) UPON ADMITTING EVIDENCE OF OTHER ACTS OR TRANSACTIONS INTO EVIDENCE PURSUANT TO THIS SECTION AND AGAIN IN THE GENERAL CHARGE TO THE JURY, THE TRIAL COURT SHALL DIRECT THE JURY AS TO THE LIMITED PURPOSE FOR WHICH THE EVIDENCE IS ADMITTED AND FOR WHICH THE JURY MAY CONSIDER IT.

SECTION 3. 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: June 3, 1994