

CHAPTER 326

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 94-1092

BY REPRESENTATIVES Allen, Kreutz, Acquafresca, Adkins, Agler, Anderson, Epps, Fleming, Friednash, George, Greenwood, Hagedorn, Hernandez, Jerke, Kaufman, Keller, Kerns, Lawrence, Lyle, Martin, Morrison, Pierson, Prinster, Reeser, Reeves, Shoemaker, Snyder, Sullivan, Tanner, and Tucker;
also SENATORS Lacy, Bishop, Hopper, Norton, and Tebedo.

AN ACT**CONCERNING PREVENTION OF CONTACT BETWEEN CRIMINAL DEFENDANTS AND PERSONS WHO ARE AFFECTED BY THE CRIMINAL ACT.**

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

SECTION 1. 16-4-203, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-4-203. Appeal bond hearing - order. (2.5) IF THE COURT DETERMINES THAT AN APPEAL BOND SHOULD BE GRANTED, THE COURT SHALL PROVIDE AS AN EXPLICIT CONDITION OF THE APPEAL BOND THAT THE DEFENDANT NOT HARASS, MOLEST, INTIMIDATE, RETALIATE AGAINST, OR TAMPER WITH THE VICTIM OF OR ANY PROSECUTION WITNESSES TO THE CRIME, UNLESS THE COURT MAKES WRITTEN FINDINGS THAT SUCH CONDITION IS NOT NECESSARY.

SECTION 2. 16-11-204 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

16-11-204. Conditions of probation. (1) The conditions of probation shall be such as the court in its discretion deems reasonably necessary to insure that the defendant will lead a law-abiding life and to assist the defendant in doing so. The court shall provide as explicit conditions of every sentence to probation that the defendant not commit another offense during the period for which the sentence remains subject to revocation, that the defendant make restitution pursuant to section 16-11-204.5, that the defendant comply with any court orders regarding substance abuse testing and treatment issued pursuant to article 11.5 of this title, and that the

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

defendant comply with any court orders regarding the treatment of sex offenders issued pursuant to article 11.7 of this title. THE COURT SHALL PROVIDE AS AN EXPLICIT CONDITION OF EVERY SENTENCE TO PROBATION THAT THE DEFENDANT NOT HARASS, MOLEST, INTIMIDATE, RETALIATE AGAINST, OR TAMPER WITH THE VICTIM OF OR ANY PROSECUTION WITNESSES TO THE CRIME, UNLESS THE COURT MAKES WRITTEN FINDINGS THAT SUCH CONDITION IS NOT NECESSARY.

SECTION 3. 18-1-1001 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-1-1001. Restraining order against defendant. (1) There is hereby created a mandatory restraining order against any person charged with a violation of any of the provisions of this title, which order shall remain in effect from the time that the person is advised of his OR HER rights at arraignment or the person's first appearance before the court and informed of such order until final disposition of the action ~~or until further order of the court~~ OR, IN THE CASE OF AN APPEAL, UNTIL DISPOSITION OF THE APPEAL. Such order shall restrain the person charged from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the acts charged.

(3) ~~The provisions of the restraining order issued pursuant to this section may be continued by the court after sentencing if the court deems such action reasonable and necessary. In addition,~~ Nothing in this section shall preclude the defendant from applying to the court at any time for modification or dismissal of ~~such order~~ THE RESTRAINING ORDER ISSUED PURSUANT TO THIS SECTION or the district attorney from applying to the court at any time for further orders, additional provisions under the restraining order, or modification or dismissal of the same. THE TRIAL COURT SHALL RETAIN JURISDICTION TO ENFORCE, MODIFY, OR DISMISS THE RESTRAINING ORDER DURING THE PENDENCY OF ANY APPEAL THAT MAY BE BROUGHT.

SECTION 4. 19-2-403 (1) and (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

19-2-403. Restraining order against juvenile. (1) There is hereby created a mandatory restraining order against any juvenile charged with the commission of a delinquent act, which order shall remain in effect from the time that the juvenile is advised of his OR HER rights and informed of such order at ~~his~~ THE JUVENILE'S first appearance before the court until final disposition of the action ~~or until further order of the court~~ OR, IN THE CASE OF AN APPEAL, UNTIL DISPOSITION OF THE APPEAL. Such order shall restrain the juvenile from harassing, molesting, intimidating, retaliating against, or tampering with any witness to or victim of the delinquent act charged.

(3) ~~The provisions of the restraining order issued pursuant to this section may be continued by the court after the dispositional hearing if the court deems such action reasonable and necessary.~~ Nothing in this section shall preclude the juvenile from applying to the court at any time for modification or dismissal of ~~such order~~ THE RESTRAINING ORDER ISSUED PURSUANT TO THIS SECTION or the district attorney from applying to the court at any time for additional provisions under the restraining order, modification of the order, or dismissal of the order. THE TRIAL COURT SHALL RETAIN JURISDICTION TO ENFORCE, MODIFY, OR DISMISS THE RESTRAINING ORDER DURING THE PENDENCY OF ANY APPEAL THAT MAY BE BROUGHT.

SECTION 5. Effective date - applicability. This act shall take effect upon passage and shall apply to any mandatory restraining order issued on or after said date.

SECTION 6. 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