

CHAPTER 264

**CRIMINAL LAW AND PROCEDURE**

**HOUSE BILL 97-1077**

BY REPRESENTATIVES Adkins, Epps, George, Hagedorn, Kaufman, and Schwarz;  
also SENATORS Wham, B. Alexander, Chlouber, Dennis, and Powers.

**AN ACT**

CONCERNING SUBSTANTIVE CHANGES FOR THE STRENGTHENING OF THE CRIMINAL LAWS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 18-1-106 (3) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-1-106. Misdemeanors classified - penalties.** (3) (b) Misdemeanors which present an extraordinary risk of harm to society shall include the following:

- (I) Assault in the third degree, as defined in section 18-3-204;
- (II) Sexual assault in the third degree, as defined in section 18-3-404; AND
- (III) Child abuse, as defined in section 18-6-401 (7) (a) (V). ~~and~~
- (IV) ~~Harassment by stalking, as defined in section 18-9-111 (4).~~

**SECTION 2.** 18-6.5-103, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-6.5-103. Crimes against at-risk adults and at-risk juveniles - classifications.** (7) (a) ANY PERSON WHO COMMITS A CRIME OF SEXUAL ASSAULT IN THE FIRST DEGREE, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-402, AND THE VICTIM IS AN AT-RISK ADULT OR AN AT-RISK JUVENILE COMMITS A CLASS 2 FELONY.

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

(b) ANY PERSON WHO COMMITS A CRIME OF SEXUAL ASSAULT IN THE SECOND DEGREE, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-403, AND THE VICTIM IS AN AT-RISK ADULT OR AN AT-RISK JUVENILE, COMMITS A CLASS 3 FELONY.

(c) ANY PERSON WHO COMMITS SEXUAL ASSAULT IN THE THIRD DEGREE, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-404, AND THE VICTIM IS AN AT-RISK ADULT OR AN AT-RISK JUVENILE, COMMITS A CLASS 6 FELONY; EXCEPT THAT THE PERSON COMMITS A CLASS 3 FELONY IF THE PERSON COMPELS THE VICTIM TO SUBMIT BY USE OF SUCH FORCE, INTIMIDATION, OR THREAT AS SPECIFIED IN SECTION 18-3-402 (1) (a), (1) (b), OR (1) (c), OR IF THE ACTOR ENGAGES IN THE CONDUCT DESCRIBED IN SECTION 18-3-404 (1) (g) OR (1.5).

(d) ANY PERSON WHO COMMITS SEXUAL ASSAULT ON A CHILD, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-405, AND THE VICTIM IS AN AT-RISK JUVENILE, COMMITS A CLASS 3 FELONY; EXCEPT THAT, IF THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-405 (2) (a), (2) (b), (2) (c), OR (2) (d) ARE PRESENT, THE PERSON COMMITS A CLASS 2 FELONY.

(e) ANY PERSON WHO COMMITS SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-405.3, AND THE VICTIM IS AN AT-RISK JUVENILE, COMMITS A CLASS 2 FELONY IF THE VICTIM IS LESS THAN FIFTEEN YEARS OF AGE OR A CLASS 3 FELONY IF THE VICTIM IS FIFTEEN YEARS OF AGE OR OLDER BUT LESS THAN EIGHTEEN YEARS OF AGE.

(f) ANY PERSON WHO COMMITS SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, AS SUCH CRIME IS DESCRIBED IN SECTION 18-3-405.5, AND THE VICTIM IS AN AT-RISK ADULT OR AN AT-RISK JUVENILE, COMMITS A CLASS 3 FELONY IF THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-405.5 (1) EXIST OR A CLASS 6 FELONY IF SUCH CIRCUMSTANCES ARE NOT PRESENT.

**SECTION 3.** 18-1-603, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-1-603. Complicity.** A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the commission of the offense, he OR SHE aids, abets, ~~or~~ advises, OR ENCOURAGES the other person in planning or committing the offense.

**SECTION 4.** 18-9-111 (4) (b) (I), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-9-111. Harassment - stalking.** (4) (b) For the purposes of this subsection (4):

(I) "Credible threat" means a threat OR PHYSICAL ACTION that would cause a reasonable person to be in fear for the person's life or safety or the safety of his or her immediate family;

**SECTION 5.** 12-47-903 (5), Colorado Revised Statutes, 1991 Repl. Vol., as amended by section 3 of House Bill 97-1076, enacted at the First Regular Session of the Sixty-First General Assembly, is amended to read:

**12-47-903. Violations - penalties.** (5) Any person ~~violating~~ WHO KNOWINGLY VIOLATES the provisions of ~~section 12-47-901 (1) (d)~~ SECTION 12-47-901 (1) (a), (1) (d), OR (1) (k), OR ANY PERSON WHO KNOWINGLY INDUCES, AIDS, OR ENCOURAGES A PERSON UNDER THE AGE OF EIGHTEEN YEARS TO VIOLATE THE PROVISIONS OF SECTIONS 12-47-901 (1) (a), (1) (b), OR (1) (c) may be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

**SECTION 6.** 18-8-111 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-8-111. False reporting to authorities.** (3) For purposes of this section, "identifying information" means a person's name, address, birth date, social security number, ~~and~~ OR driver's license or Colorado identification number.

**SECTION 7.** 16-7-403 (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**16-7-403. Deferred sentencing of defendant.** (2) Prior to entry of a plea of guilty to be followed by deferred judgment and sentence, the district attorney, in the course of plea discussion as provided in sections 16-7-301 and 16-7-302, is authorized to enter into a written stipulation, to be signed by the defendant, the defendant's attorney of record, and the district attorney, under which the defendant is obligated to adhere to such stipulation. The conditions imposed in the stipulation shall be similar in all respects to conditions permitted as part of probation. ANY PERSON CONVICTED OF A CRIME, THE UNDERLYING FACTUAL BASIS OF WHICH INCLUDED AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S., SHALL STIPULATE TO THE CONDITIONS SPECIFIED IN SECTION 16-11-204 (2) (b). In addition, the stipulation may require the defendant to perform community or charitable work service projects or make donations thereto. Upon full compliance with such conditions by the defendant, the plea of guilty previously entered shall be withdrawn and the charge upon which the judgment and sentence of the court was deferred shall be dismissed with prejudice. Such stipulation shall specifically provide that, upon a breach by the defendant of any condition regulating the conduct of the defendant, the court shall enter judgment and impose sentence upon such guilty plea. When, as a condition of the deferred sentence, the court orders the defendant to make restitution, evidence of failure to pay the said restitution shall constitute prima facie evidence of a violation. Whether a breach of condition has occurred shall be determined by the court without a jury upon application of the district attorney and upon notice of hearing thereon of not less than five days to the defendant or the defendant's attorney of record. Application for entry of judgment and imposition of sentence may be made by the district attorney at any time within the term of the deferred judgment or within thirty days thereafter. The burden of proof at such hearing shall be by a preponderance of the evidence, and the procedural safeguards required in a revocation of probation hearing shall apply.

**SECTION 8.** The introductory portion to 18-18-407 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-18-407. Special offender.** (1) Upon a felony conviction under this part 4, the presence of any one or more of the following extraordinary aggravating circumstances designating the defendant a special offender shall require the court to

sentence the defendant to a term greater than the presumptive range for A TERM OF AT LEAST THE MINIMUM TERM OF YEARS WITHIN THE PRESUMPTIVE RANGE FOR a class 2 felony but not more than twice the maximum term OF YEARS WITHIN THE PRESUMPTIVE RANGE for a class 2 felony: authorized in the presumptive range for the punishment of such felony:

**SECTION 9.** 18-18-405 (2) (a) (I) and (3) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession.** (2) Except as is otherwise provided for offenses concerning marihuana and marihuana concentrate in section 18-18-406 and offenses involving minors in section 18-18-407 (1) (g), any person who violates any of the provisions of subsection (1) of this section:

(a) In the case of a controlled substance listed in schedule I or II of part 2 of this article, commits:

(I) A class 3 felony; except that a person commits a class 4 felony if such violation is based on the possession of a controlled substance listed in schedule II UNLESS OTHERWISE PROVIDED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION; or

(3) (a) Except as otherwise provided in section 18-18-407 relating to special offenders, any person convicted pursuant to paragraph (a) of subsection (2) of this section for knowingly manufacturing, dispensing, selling, distributing, possessing, or possessing with intent to manufacture, dispense, sell, or distribute, or inducing, attempting to induce, or conspiring with one or more other persons, to manufacture, dispense, sell, distribute, possess, or possess with intent to manufacture, dispense, sell, or distribute AN AMOUNT THAT IS OR HAS BEEN REPRESENTED TO BE:

(I) ~~twenty-eight grams or more~~ AT LEAST TWENTY-FIVE GRAMS OR ONE OUNCE BUT LESS THAN FOUR HUNDRED FIFTY GRAMS of any material, compound, mixture, or preparation ~~which~~ THAT contains cocaine, as defined in section ~~12-22-303 (6.5),~~ C.R.S., A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE AS LISTED IN SECTION 18-18-203 OR 18-18-204 shall be sentenced to the department of corrections for at least the minimum term of incarceration in the presumptive range provided for such offense in section 18-1-105 (1) (a);

(II) AT LEAST FOUR HUNDRED FIFTY GRAMS OR ONE POUND BUT LESS THAN ONE THOUSAND GRAMS OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE AS LISTED IN SECTION 18-18-203 OR 18-18-204 SHALL BE SENTENCED TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF AT LEAST THE MIDPOINT OF THE PRESUMPTIVE RANGE BUT NOT MORE THAN TWICE THE MAXIMUM PRESUMPTIVE RANGE PROVIDED FOR SUCH OFFENSE IN SECTION 18-1-105 (1) (a);

(III) ONE THOUSAND GRAMS OR ONE KILOGRAM OR MORE OF ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS A SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE AS LISTED IN SECTION 18-18-203 OR 18-18-204 SHALL BE SENTENCED TO THE DEPARTMENT OF CORRECTIONS FOR A TERM GREATER THAN THE MAXIMUM PRESUMPTIVE RANGE BUT NOT MORE THAN TWICE THE MAXIMUM

PRESUMPTIVE RANGE PROVIDED FOR SUCH OFFENSE IN SECTION 18-1-105 (1) (a).

**SECTION 10.** 18-18-405 (4), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

**18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession.** (4) (a) ~~Except as otherwise provided in section 18-18-407 relating to special offenders, any person convicted pursuant to paragraph (a), (b), (c), or (d) of subsection (2) of this section for knowingly dispensing, selling, distributing, or possessing with intent to dispense, sell, or distribute a controlled substance to any person either within or upon the grounds of any public or private elementary, middle, junior high, or high school, vocational school, or public housing development, or within one thousand feet of the perimeter of any such school or public housing development grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises which is accessible to the public, or within any private dwelling which is accessible to the public for the purpose of the sale, distribution, use, or exchange of controlled substances in violation of this article, shall be sentenced to the department of corrections for a minimum term of five years notwithstanding a lesser minimum term of incarceration in the presumptive range provided for such offense in section 18-1-105 (1) (a):~~

~~(b) If the conviction is subsequent to a prior conviction for a violation to which this subsection (4) applies, such person shall be sentenced to the department of corrections for at least a minimum term of twenty years notwithstanding a lesser minimum term of incarceration in the presumptive range provided for such offense in section 18-1-105 (1) (a):~~

~~(c) For the purposes of this section, the term "public housing development" means any low-income housing project of any state, county, municipal, or other governmental entity or public body owned and operated by a public housing authority which has an on-site manager. "Public housing development" shall not include single-family dispersed housing or small or large clusters of dispersed housing which have no on-site manager.~~

**SECTION 11.** 18-3-102 (1) (e), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-102. Murder in the first degree.** (1) A person commits the crime of murder in the first degree if:

(e) He OR SHE commits unlawful distribution, dispensation, or sale of a controlled substance to a person under the age of eighteen years on school grounds as provided in ~~section 18-18-405 (4)~~ SECTION 18-18-407 (2), and the death of such person is caused by the use of such controlled substance; or

**SECTION 12.** 18-18-407 (2) (a) and (2) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-18-407. Special offender.** (2) (a) ~~Upon a conviction for a violation of section 18-18-404 or 18-18-405, if~~ A DEFENDANT SHALL BE A SPECIAL OFFENDER IF the defendant ~~unlawfully used any controlled substance in violation of section 18-18-404~~

~~or sold, or distributed~~ IS CONVICTED OF SELLING, DISTRIBUTING, OR POSSESSING WITH INTENT TO DISTRIBUTE any controlled substance in violation of section 18-18-405 TO ANY PERSON either within or upon the grounds of any public or private elementary, middle, junior high, or high school, vocational school, or public housing development, or within one thousand feet of the perimeter of any such school or public housing development grounds on any street, alley, parkway, sidewalk, public park, playground, or other area or premises which is accessible to the public, or within any private dwelling which is accessible to the public for the purpose of the sale, distribution, use, or exchange of controlled substances in violation of this article, or in any school bus as defined in section 42-1-102 (88), C.R.S., while such school bus is engaged in the transportation of persons who are students at any public or private elementary, middle, junior high, or high school. ~~the defendant shall be a special offender and~~ The court is required, in addition to imposing any sentence to imprisonment, to fine the defendant without suspension at least twice the minimum fine provided for in section 18-1-105 (1) (a) (III) if the defendant's offense is a felony or in section 18-1-106 (1) if the defendant's offense is a misdemeanor.

(c) For the purposes of this section, the term "public housing development" ~~has the same meaning as defined in section 18-18-405 (4) (c).~~ MEANS ANY LOW-INCOME HOUSING PROJECT OF ANY STATE, COUNTY, MUNICIPAL, OR OTHER GOVERNMENTAL ENTITY OR PUBLIC BODY OWNED AND OPERATED BY A PUBLIC HOUSING AUTHORITY THAT HAS AN ON-SITE MANAGER. "PUBLIC HOUSING DEVELOPMENT" SHALL NOT INCLUDE SINGLE-FAMILY DISPERSED HOUSING OR SMALL OR LARGE CLUSTERS OF DISPERSED HOUSING HAVING NO ON-SITE MANAGER.

**SECTION 13.** 18-3-202 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-3-202. Assault in the first degree.** (2) (a) If assault in the first degree is committed under circumstances where the act causing the injury is performed ~~not after deliberation~~, upon a sudden heat of passion, caused by a serious and highly provoking act of the intended victim, affecting the person causing the injury sufficiently to excite an irresistible passion in a reasonable person, AND WITHOUT AN INTERVAL BETWEEN THE PROVOCATION AND THE INJURY SUFFICIENT FOR THE VOICE OF REASON AND HUMANITY TO BE HEARD, it is a class 5 felony.

**SECTION 14.** 18-3-203 (2) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-203. Assault in the second degree.** (2) (a) If assault in the second degree is committed under circumstances where the act causing the injury is performed ~~not after deliberation~~, upon a sudden heat of passion, caused by a serious and highly provoking act of the intended victim, affecting the person causing the injury sufficiently to excite an irresistible passion in a reasonable person, AND WITHOUT AN INTERVAL BETWEEN THE PROVOCATION AND THE INJURY SUFFICIENT FOR THE VOICE OF REASON AND HUMANITY TO BE HEARD, it is a class 6 felony.

**SECTION 15.** 1-13-108, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is repealed as follows:

**1-13-108. Anonymous statements concerning candidates or issues.** ~~(1) Any~~

~~person as defined in section 1-45-103 (9) who willfully causes to be published or printed or who intentionally causes to be distributed any card, pamphlet, circular, poster, dodger, advertisement, or other writing relating to any candidate for election for any office or relating to any issue which is to be submitted to the electors in any election provided by law which does not contain, clearly set apart from the text and identifying them as sponsors, the names of the persons, associations, committees, or corporations responsible for the publication, printing, or distribution of the same and the name of the president, chairman, or responsible official of each such association, committee, or corporation is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.~~

~~(2) Subsection (1) of this section shall not apply to any person who distributes, publishes, or prints any such card, pamphlet, circular, poster, dodger, advertisement, or other writing but who is not responsible for authoring, authorizing, paying for, or ordering the material.~~

~~(3) The general assembly declares that the purpose of subsections (1) and (2) of this section is to further the compelling state interest in preserving the integrity of the election process by providing a means of identifying those persons who author, authorize, pay for or order the publishing, printing, or distributing of campaign materials. Such identification is intended to ascertain the source of statements that are fraudulent, libelous, false, or erroneous and as a result to insulate the election process from such statements. Such identification is also intended to help the voters make informed decisions by permitting interested persons to ascertain and evaluate the source of the statements. Additionally, such identification will facilitate any appropriate criminal prosecution for violations of section 1-13-109 relating to false statements.~~

**SECTION 16.** 31-10-1521.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is repealed as follows:

**31-10-1521.5. Anonymous statements concerning candidates or issues - penalties.** ~~Any person, as defined in section 1-45-103 (3) (a), C.R.S., who willfully causes to be published or printed or who intentionally causes to be distributed any card, pamphlet, circular, poster, dodger, advertising, or other writing relating to any candidate for election to any office or relating to any issue which is to be submitted to the electors at any election conducted pursuant to this article which does not contain, clearly set apart from the text and identifying them as sponsors, the names of the persons, associations, committees, or corporations responsible for the publication, printing, or distribution of the same and the name of the president, chairman, or responsible official of each association, committee, or corporation is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 31-10-1504.~~

**SECTION 17.** 18-1-105 (9) (a), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**18-1-105. Felonies classified - presumptive penalties.** (9) (a) The presence of any one or more of the following extraordinary aggravating circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more

than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(IX) THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE AND, AT THE TIME OF THE COMMISSION OF A FELONY, THE DEFENDANT WAS ON PROBATION FOR OR ON BOND WHILE AWAITING SENTENCING FOLLOWING REVOCATION OF PROBATION FOR ANOTHER OFFENSE THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT.

**SECTION 18.** 18-1-105 (9.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**18-1-105. Felonies classified - presumptive penalties.** (9.5) The presence of any one or more of the following sentence-enhancing circumstances shall require the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the minimum in the presumptive range but not more than twice the maximum term authorized in the presumptive range for the punishment of a felony:

(a.5) THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE AND, AT THE TIME OF THE COMMISSION OF THE FELONY, THE DEFENDANT WAS CHARGED WITH OR WAS ON BOND FOR A PREVIOUS OFFENSE THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

(c.5) THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE AND, AT THE TIME OF THE COMMISSION OF THE FELONY, THE DEFENDANT WAS ON BOND FOR HAVING PLED GUILTY TO A LESSER OFFENSE WHEN THE ORIGINAL OFFENSE CHARGED WAS AN OFFENSE THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

(c.7) THE DEFENDANT IS UNDER EIGHTEEN YEARS OF AGE AND, AT THE TIME OF THE COMMISSION OF THE FELONY, THE DEFENDANT WAS UNDER A DEFERRED JUDGMENT AND SENTENCE FOR ANOTHER OFFENSE THAT WOULD HAVE CONSTITUTED A FELONY IF COMMITTED BY AN ADULT;

**SECTION 19.** 18-3-412.5 (1) (f), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (1) On and after July 1, 1994, any person who is convicted in the state of Colorado of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) and any person who has been convicted, on and after July 1, 1994, in any other state of an offense that, if committed in the state of Colorado, would constitute an offense involving unlawful sexual behavior as defined in this subsection (1) or any person who is released from the custody of the department of corrections having completed serving a sentence for an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) shall be required to register in the manner prescribed in subsection (2) of this section. For purposes of this section, "unlawful sexual behavior" is defined as:

(f) Sexual assault on a ~~child~~ CLIENT by a psychotherapist, in violation of section 18-3-405.5;

**SECTION 20.** 18-8-105 (2) (e), Colorado Revised Statutes, 1986 Repl. Vol., is amended, and the said 18-8-105 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**18-8-105. Accessory to crime.** (2) "Render assistance" means to:

(a.5) HARBOR OR CONCEAL THE VICTIM OR A WITNESS TO THE CRIME; OR

(e) Conceal, destroy, or alter any physical OR TESTIMONIAL evidence that might aid in the discovery, detection, apprehension, prosecution, conviction, or punishment of such person.

**SECTION 21.** 24-4.2-104 (1) (a) (II) (B), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**24-4.2-104. Surcharges levied on criminal actions and traffic offenses.**

(1) (a) (II) (B) The surcharge in sub-subparagraph (A) of this subparagraph (II) shall apply to charges brought pursuant TO THE FOLLOWING SECTIONS: 18-3-305, 18-3-402, 18-3-403, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5, 18-6-301, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-302, 18-7-402, and 18-7-405, 18-7-405.5, AND 18-7-406, C.R.S., or any attempt to commit any of these crimes.

**SECTION 22.** 18-9-112 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**18-9-112. Loitering - definition.** (2) A person commits a class 1 petty offense if he OR SHE,

~~(a) Loiters for the purpose of begging; or~~

~~(b) Loiters for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia; or~~

~~(c) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse; or~~

~~(d) with intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one hundred feet of school grounds when persons under the age of eighteen are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or his representative or by a peace officer. or~~

~~(e) Loiters with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in section 12-22-303 (7), C.R.S.~~

**SECTION 23.** 18-4-401 (2) (b) and (2) (c), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**18-4-401. Theft.** (2) Theft is:

(b) A class 2 misdemeanor if the value of the thing involved is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

(c) A class 4 felony if the value of the thing involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars;

**SECTION 24.** 17-22.5-405 (5) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**17-22.5-405. Earned time.** (5) (b) As used in this subsection (5), unless the context otherwise requires, a "nonviolent felony offense" means a felony offense other than a crime of violence as defined in section 16-11-309 (2), C.R.S., any of the felony offenses set forth in section 18-3-104, 18-4-203, OR 18-4-301, ~~OR 18-4-401 (2) (c), (2) (d), or (5)~~, C.R.S., or any felony offense committed against a child as set forth in articles 3, 6, and 7 of title 18, C.R.S.

**SECTION 25.** The introductory portion to 24-75-302 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-75-302 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

**24-75-302. Capital construction fund - capital assessment fees - calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 1998, AND AS OF JULY 1, 2000, AND JULY 1, 2001, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(m) ON JULY 1, 2000, FOUR HUNDRED SEVENTY-EIGHT THOUSAND SIX HUNDRED THIRTY-FOUR DOLLARS PURSUANT TO H.B. 97-1077, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY; AND

(n) ON JULY 1, 2001, NINE HUNDRED FIVE THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS PURSUANT TO H.B. 97-1077, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY.

**SECTION 26.** Part 1 of article 1 of title 17, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-1-120. Appropriation to comply with section 2-2-703.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HB 97-1077, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FIRST GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEARS BEGINNING JULY 1, 1997, JULY 1, 1998, AND JULY 1, 1999, NO ADDITIONAL APPROPRIATIONS ARE NECESSARY FOR THE IMPLEMENTATION OF SAID HB 97-1077.

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2000, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF FOUR HUNDRED SEVENTY-EIGHT THOUSAND SIX HUNDRED THIRTY-FOUR DOLLARS (\$478,634).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED:

(I) FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF NINE HUNDRED FIVE THOUSAND SEVEN HUNDRED TWENTY-THREE DOLLARS (\$905,723);

(II) FROM THE GENERAL FUND TO THE DEPARTMENT OF CORRECTIONS, THE SUM OF ONE HUNDRED FORTY-FIVE THOUSAND NINE HUNDRED SEVENTY-SEVEN DOLLARS (\$145,977).

**SECTION 27. Exception to the requirements of section 2-2-703, Colorado Revised Statutes.** The general assembly hereby finds that the amendment to section 12-47-903 (5), Colorado Revised Statutes, enacted in section 5 of this act, is required to clarify its original intent that a violation of section 12-47-901 (1) (a), Colorado Revised Statutes, may be prosecuted under section 18-6-701, Colorado Revised Statutes, for contributing to the delinquency of a minor. Because this amendment merely clarifies the general assembly's original intent, it is an exception to the five-year appropriations requirement specified in section 2-2-703, Colorado Revised Statutes.

**SECTION 28. Appropriations in long bill to be adjusted.** (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of corrections for the fiscal year beginning July 1, 1997, shall be adjusted as follows:

(a) The general fund appropriation for management, instate jail backlog subprogram is decreased by two hundred fifty-five thousand seven hundred fourteen dollars (\$255,714);

(b) The general fund appropriation for community services, parole, personal services is decreased by forty-seven thousand seven hundred seventy-four dollars (\$47,774) and 0.8 FTE.

**SECTION 29. Effective date - applicability.** This act shall take effect July 1, 1997, and shall apply to offenses committed on or after said date; except that section 24 of this act shall apply to offenses committed on or after July 1, 1993.

**SECTION 30. 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 4, 1997