

## CHAPTER 215

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 99-1168**

BY REPRESENTATIVES Kaufman, Allen, Clapp, Coleman, Fairbank, Gagliardi, George, Grossman, Hagedorn, Hefley, Lawrence, Mace, May, Mitchell, Morrison, Spence, Spradley, Swenson, Tool, Veiga, Vigil, S. Williams, and Young; also SENATORS Wham, Arnold, and Epps.

**AN ACT**

CONCERNING SUBSTANTIVE CHANGES FOR THE STRENGTHENING OF THE CRIMINAL LAWS.

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

**SECTION 1.** 18-9-111 (4) and (5), Colorado Revised Statutes, are amended to read:

**18-9-111. Harassment - stalking.** (4) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT STALKING IS A SERIOUS PROBLEM IN THIS STATE AND NATIONWIDE. ALTHOUGH STALKING OFTEN INVOLVES PERSONS WHO HAVE HAD AN INTIMATE RELATIONSHIP WITH ONE ANOTHER, IT CAN ALSO INVOLVE PERSONS WHO HAVE LITTLE OR NO PAST RELATIONSHIP. A STALKER WILL OFTEN MAINTAIN STRONG, UNSHAKABLE, AND IRRATIONAL EMOTIONAL FEELINGS FOR HIS OR HER VICTIM, AND MAY LIKEWISE BELIEVE THAT THE VICTIM EITHER RETURNS THESE FEELINGS OF AFFECTION OR WILL DO SO IF THE STALKER IS PERSISTENT ENOUGH. FURTHER, THE STALKER OFTEN MAINTAINS THIS BELIEF, DESPITE A TRIVIAL OR NONEXISTENT BASIS FOR IT AND DESPITE REJECTION, LACK OF RECIPROCATION, EFFORTS TO RESTRICT OR AVOID THE STALKER, AND OTHER FACTS THAT CONFLICT WITH THIS BELIEF. A STALKER MAY ALSO DEVELOP JEALOUSY AND ANIMOSITY FOR PERSONS WHO ARE IN RELATIONSHIPS WITH THE VICTIM, INCLUDING FAMILY MEMBERS, EMPLOYERS AND CO-WORKERS, AND FRIENDS, PERCEIVING THEM AS OBSTACLES OR AS THREATS TO THE STALKER'S OWN "RELATIONSHIP" WITH THE VICTIM. BECAUSE STALKING INVOLVES HIGHLY INAPPROPRIATE INTENSITY, PERSISTENCE, AND POSSESSIVENESS, IT ENTAILS GREAT UNPREDICTABILITY AND CREATES GREAT STRESS AND FEAR FOR THE VICTIM. STALKING INVOLVES SEVERE INTRUSIONS ON THE VICTIM'S PERSONAL PRIVACY AND AUTONOMY, WITH AN IMMEDIATE AND LONG-LASTING IMPACT ON QUALITY OF LIFE AS WELL AS RISKS TO SECURITY AND SAFETY OF THE VICTIM AND PERSONS CLOSE TO THE VICTIM, EVEN IN THE ABSENCE OF EXPRESS THREATS OF PHYSICAL HARM. THE

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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.*

GENERAL ASSEMBLY HEREBY RECOGNIZES THE SERIOUSNESS POSED BY STALKING AND ADOPTS THE PROVISIONS OF THIS SUBSECTION (4) AND SUBSECTIONS (5) AND (6) OF THIS SECTION WITH THE GOAL OF ENCOURAGING AND AUTHORIZING EFFECTIVE INTERVENTION BEFORE STALKING CAN ESCALATE INTO BEHAVIOR THAT HAS EVEN MORE SERIOUS CONSEQUENCES.

~~(a) (b) In addition to the circumstances described in subsection (1) of this section, A person commits harassment by stalking if directly, or indirectly through another person, such person knowingly:~~

(I) Makes a credible threat to another person and, in connection with such threat, repeatedly follows, APPROACHES, CONTACTS, OR PLACES UNDER SURVEILLANCE that person, ~~or~~ a member of that person's immediate family, OR SOMEONE WITH WHOM THAT PERSON HAS OR HAS HAD A CONTINUING RELATIONSHIP; or

(II) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person, ~~or~~ a member of that person's immediate family, OR SOMEONE WITH WHOM THAT PERSON HAS OR HAS HAD A CONTINUING RELATIONSHIP, REGARDLESS OF whether ~~or not~~ a conversation ensues; OR

(III) REPEATEDLY FOLLOWS, APPROACHES, CONTACTS, PLACES UNDER SURVEILLANCE, OR MAKES ANY FORM OF COMMUNICATION WITH ANOTHER PERSON, A MEMBER OF THAT PERSON'S IMMEDIATE FAMILY, OR SOMEONE WITH WHOM THAT PERSON HAS OR HAS HAD A CONTINUING RELATIONSHIP IN A MANNER THAT WOULD CAUSE A REASONABLE PERSON TO SUFFER SERIOUS EMOTIONAL DISTRESS AND DOES CAUSE THAT PERSON, A MEMBER OF THAT PERSON'S IMMEDIATE FAMILY, OR SOMEONE WITH WHOM THAT PERSON HAS OR HAS HAD A CONTINUING RELATIONSHIP TO SUFFER SERIOUS EMOTIONAL DISTRESS. FOR PURPOSES OF THIS SUBPARAGRAPH (III), A VICTIM NEED NOT SHOW THAT HE OR SHE RECEIVED PROFESSIONAL TREATMENT OR COUNSELING TO SHOW THAT HE OR SHE SUFFERED SERIOUS EMOTIONAL DISTRESS.

~~(b) (c) For the purposes of this subsection (4):~~

(I) CONDUCT "IN CONNECTION WITH" A CREDIBLE THREAT MEANS ACTS WHICH FURTHER, ADVANCE, PROMOTE, OR HAVE A CONTINUITY OF PURPOSE, AND MAY OCCUR BEFORE, DURING, OR AFTER THE CREDIBLE THREAT;

~~(II) "Credible threat" means a threat, or physical action, OR REPEATED CONDUCT 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 OR OF SOMEONE WITH WHOM THE PERSON HAS OR HAS HAD A CONTINUING RELATIONSHIP. SUCH THREAT NEED NOT BE DIRECTLY EXPRESSED IF THE TOTALITY OF THE CONDUCT WOULD CAUSE A REASONABLE PERSON SUCH FEAR.~~

~~(III) "Immediate family" includes the person's spouse and the person's parent, grandparent, sibling, or child; AND~~

~~(III) "In connection with" means acts occurring either before, during, or after the credible threat; and~~

(IV) "REPEATED" OR "repeatedly" means on more than one occasion.

(5) Where a person commits ~~harassment by stalking under paragraph (a)~~ PARAGRAPH (b) of subsection (4) of this section, the following shall apply:

(a) A person commits a ~~class-6~~ CLASS 5 felony for a first offense.

(a.5) For a second or subsequent offense, if such offense occurs within seven years of the date of a prior offense for which such person was convicted, the offender commits a ~~class-5~~ CLASS 4 felony.

(b) If, at the time of the offense, there was a temporary OR PERMANENT restraining order, injunction, OR CONDITION OF BOND, PROBATION, OR PAROLE or any other court order in effect against such person prohibiting the behavior described in ~~subparagraph (I) or (II) of paragraph (a)~~ PARAGRAPH (b) of subsection (4) of this section, such person commits a ~~class-6~~ CLASS 4 felony. In addition, when a violation under subsection (4) of this section is committed in connection with a violation of a court order, including but not limited to any restraining order or any order that sets forth the conditions of a bond, any sentence imposed for such violation pursuant to this subsection (5) shall run consecutively and not concurrently with any sentence imposed pursuant to section 18-6-803.5 and with any sentence imposed in a contempt proceeding for violation of the court order. Nothing in this paragraph (b) shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings; however, before a criminal contempt proceeding is heard before the court, notice of the proceedings shall be provided to the district attorney for the district of the court where the proceedings are to be heard and the district attorney for the district of the court where the alleged act of criminal contempt occurred. The district attorney for either district shall be allowed to appear and argue for the imposition of contempt sanctions.

**SECTION 2.** 24-4.1-302 (1) (cc.1), Colorado Revised Statutes, is amended to read:

**24-4.1-302. Definitions.** As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following offenses as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile:

(cc.1) ~~Harassment by Stalking~~, in violation of section 18-9-111 (4), C.R.S.;

**SECTION 3.** 18-1-105 (9.7) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**18-1-105. Felonies classified - presumptive penalties.** (9.7) (b) Crimes which present an extraordinary risk of harm to society shall include the following:

(XIII) STALKING, AS DESCRIBED IN SECTION 18-9-111 (4).

**SECTION 4.** 18-9-111 (2), Colorado Revised Statutes, is amended to read:

**18-9-111. Harassment - stalking.** (2) Harassment pursuant to subsection (1) of this section is a class 3 misdemeanor; EXCEPT THAT HARASSMENT IS A CLASS 1 MISDEMEANOR IF THE OFFENDER COMMITS HARASSMENT PURSUANT TO SUBSECTION (1) OF THIS SECTION WITH THE INTENT TO INTIMIDATE OR HARASS ANOTHER PERSON BECAUSE OF THAT PERSON'S ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, ANCESTRY, OR NATIONAL ORIGIN.

**SECTION 5.** The introductory portion to 18-9-121 (2) and 18-9-121 (3), Colorado Revised Statutes, are amended to read:

**18-9-121. Ethnic intimidation.** (2) A person commits ethnic intimidation if, with the intent to intimidate or harass another person because of that person's ACTUAL OR PERCEIVED race, color, religion, ancestry, or national origin, he OR SHE:

(3) Ethnic intimidation AS DESCRIBED IN PARAGRAPH (b) OR (c) OF SUBSECTION (2) OF THIS SECTION is a class 1 misdemeanor. ~~except that a violation of ETHNIC INTIMIDATION AS DESCRIBED IN paragraph (a) of subsection (2) of this section is a class 5 felony; EXCEPT THAT ETHNIC INTIMIDATION AS DESCRIBED IN SAID PARAGRAPH (a) IS A CLASS 4 FELONY IF THE OFFENDER IS PHYSICALLY AIDED OR ABETTED BY ONE OR MORE OTHER PERSONS DURING THE COMMISSION OF THE OFFENSE.~~

**SECTION 6.** 18-18-405, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession.** (2.5) (a) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF SUBSECTION (2) OF THIS SECTION, A PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION WITH REGARD TO FLUNITRAZEPAM COMMITS A CLASS 3 FELONY; EXCEPT THAT THE PERSON COMMITS A CLASS 2 FELONY IF THE VIOLATION IS COMMITTED SUBSEQUENT TO A PRIOR CONVICTION FOR A VIOLATION INVOLVING FLUNITRAZEPAM OR TO WHICH PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION APPLIES.

(b) ANY PERSON CONVICTED OF VIOLATING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION WITH REGARD TO FLUNITRAZEPAM SHALL BE SUBJECT TO THE MANDATORY SENTENCING PROVISIONS OF SUBSECTION (3) OF THIS SECTION.

**SECTION 7.** 18-13-122 (2) (b), Colorado Revised Statutes, is amended to read:

**18-13-122. Illegal possession or consumption of ethyl alcohol by an underage person.** (2) (b) Illegal possession or consumption of ethyl alcohol by an underage person ~~is a class 2 petty offense and~~ shall be punished by a fine of not more than one hundred dollars. The court, upon sentencing a defendant pursuant to this paragraph (b), may, in addition to any fine, order that the defendant perform up to twenty-four hours of useful public service, subject to the conditions and restrictions of section 16-11-701, C.R.S., and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own expense. ~~The penalty assessment provisions of section 18-1-107 shall not apply to any charge under this section.~~

**SECTION 8.** 18-18-405 (5), Colorado Revised Statutes, is amended to read:

**18-18-405. Unlawful distribution, manufacturing, dispensing, sale, or possession.** (5) When a person commits unlawful distribution, manufacture, dispensing, sale, or possession with intent to manufacture, dispense, sell, or distribute ~~cocaine~~ ANY SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE, AS LISTED IN SECTION 18-18-203 OR 18-18-204, OR FLUNITRAZEPAM, pursuant to subsection (1) of this section, twice or more within a period of six months, without having been placed in jeopardy for the prior offense or offenses, and the aggregate amount of ~~cocaine~~ THE SCHEDULE I OR SCHEDULE II CONTROLLED SUBSTANCE OR FLUNITRAZEPAM involved equals or exceeds twenty-five grams, the defendant shall be sentenced pursuant to the mandatory sentencing requirements specified in subsection (3) of this section.

**SECTION 9.** 42-2-206 (1), Colorado Revised Statutes, is amended to read:

**42-2-206. Driving after revocation prohibited.** (1) (a) It is unlawful for any person to operate any motor vehicle in this state while the revocation of the department prohibiting the operation remains in effect. Any person found to be an habitual offender, who is thereafter convicted of operating a motor vehicle in this state while the revocation of the department prohibiting such operation is in effect, commits a ~~class 6 felony and shall be punished as provided in section 18-1-105,~~ **C.R.S. CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1-106, C.R.S.**

(b) (I) A PERSON COMMITS THE CRIME OF AGGRAVATED DRIVING WITH A REVOKED LICENSE IF HE OR SHE IS FOUND TO BE AN HABITUAL OFFENDER AND THEREAFTER CONVICTED OF OPERATING A MOTOR VEHICLE IN THIS STATE WHILE THE REVOCATION OF THE DEPARTMENT PROHIBITING SUCH OPERATION IS IN EFFECT AND, AS A RESULT OF THE SAME CRIMINAL EPISODE, IS ALSO CONVICTED OF ANY OF THE FOLLOWING OFFENSES:

(A) DRIVING UNDER THE INFLUENCE, AS DESCRIBED IN SECTION 42-4-1301 (1) (a);

(B) DRIVING WHILE ABILITY IMPAIRED, AS DESCRIBED IN SECTION 42-4-1301 (1) (b);

(C) RECKLESS DRIVING, AS DESCRIBED IN SECTION 42-4-1401;

(D) ELUDING OR ATTEMPTING TO ELUDE A POLICE OFFICER, AS DESCRIBED IN SECTION 42-4-1413; OR

(E) VIOLATION OF ANY OF THE REQUIREMENTS SPECIFIED FOR ACCIDENTS AND ACCIDENT REPORTS IN SECTIONS 42-4-1601 TO 42-4-1606.

(II) AGGRAVATED DRIVING WITH A REVOKED LICENSE IS A CLASS 6 FELONY, PUNISHABLE AS PROVIDED IN SECTION 18-1-105, C.R.S.

**SECTION 10.** 18-9-204.5 (2) (a), Colorado Revised Statutes, is amended to read:

**18-9-204.5. Unlawful ownership of dangerous dog.** (2) As used in this section, unless the context otherwise requires:

(a) "Bodily injury" means any physical injury that results in severe bruising, muscle tears, OR skin lacerations requiring professional medical treatment ~~or fracture of any bone~~ or ANY PHYSICAL injury that requires corrective or cosmetic surgery.

**SECTION 11.** 18-4-410 (7), Colorado Revised Statutes, is amended to read:

**18-4-410. Theft by receiving.** (7) When a person commits theft by receiving twice or more within a period of six months without having been placed in jeopardy for the prior offenses and the aggregate value of the things involved is five hundred dollars or more BUT LESS THAN FIFTEEN THOUSAND DOLLARS, IT IS A CLASS 4 FELONY; HOWEVER, IF THE AGGREGATE VALUE OF THE THINGS INVOLVED IS FIFTEEN THOUSAND DOLLARS OR MORE, it is a class 3 felony.

**SECTION 12.** 18-18-204 (2) (f), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**18-18-204. Schedule II.** (2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule II:

(f) Any material, compound, mixture, or preparation containing any quantity of the following substances:

(III) REMIFENTANIL HYDROCHLORIDE.

**SECTION 13.** 18-18-206 (2) (e), Colorado Revised Statutes, is amended to read:

**18-18-206. Schedule IV.** (2) Unless specifically excepted by Colorado or federal law or Colorado or federal regulation or more specifically included in another schedule, the following controlled substances are listed in schedule IV:

(e) Any material, compound, mixture, or preparation containing any quantity of the following ~~substance~~ SUBSTANCES, including ~~its~~ THEIR salts AND ISOMERS:

(I) MODAFINIL;

(II) Pentazocine;

(III) SIBUTRAMINE;

(IV) STADOL (BUTORPHANOL TARTRATE).

**SECTION 14.** Part 2 of article 8 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-8-210.2. Persons in custody or confinement.** FOR THE PURPOSES OF THIS PART 2, ANY REFERENCE TO CUSTODY, CONFINEMENT, CHARGED WITH, HELD FOR, OR CONVICTED OF, A FELONY, MISDEMEANOR, OR PETTY OFFENSE SHALL BE DEEMED TO INCLUDE ANY FELONY, MISDEMEANOR, OR PETTY OFFENSE UNDER THE LAWS OF THIS STATE AND ANY FELONY, MISDEMEANOR, OR PETTY OFFENSE HAVING SIMILAR ELEMENTS UNDER THE LAWS OF ANOTHER STATE, THE UNITED STATES, OR ANY

TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

**SECTION 15.** 16-13-314 (1), Colorado Revised Statutes, is amended to read:

**16-13-314. Disposition of forfeited real property.** (1) In an action to abate a class 1 public nuisance, if the court finds that such class 1 public nuisance exists and that the same has been conducted, used, or maintained by the owner of a building, place, or any real property seized and closed as a class 1 public nuisance, or that the nuisance has been conducted, used, or maintained by any person with the actual knowledge and consent of the owner, a permanent order of abatement shall be entered as a part of the judgment in the case. The order of abatement shall direct the sheriff to sell such building or place and the ground upon which such building or place is situate or any other real property, to the extent of the interest of such owner therein, at public sale in the manner provided for sales of property upon execution. In no event shall real property ~~not actually used for the illegal purpose which~~ THAT IS NEITHER PROCEEDS OF NOR PART OF THE SAME LOT OR TRACT OF LAND USED FOR THE PUBLIC NUISANCE ACT THAT was the underlying subject matter of the public nuisance action, be subject to seizure and forfeiture, excepting access and egress routes.

**SECTION 16.** Part 4 of article 18 of title18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-18-406.5. Unlawful use of marihuana in a detention facility.** (1) ANY PERSON CONFINED IN ANY DETENTION FACILITY IN THIS STATE WHO POSSESSES OR USES UP TO EIGHT OUNCES OF MARIHUANA COMMITS A CLASS 6 FELONY; EXCEPT THAT, IF THE PERSON COMMITS A SECOND OR SUBSEQUENT VIOLATION WHERE BOTH THE INITIAL AND SUBSEQUENT VIOLATIONS INVOLVED MORE THAN ONE OUNCE OF MARIHUANA, THE PERSON COMMITS A CLASS 5 FELONY.

(2) ANY PERSON CONFINED IN ANY DETENTION FACILITY IN THIS STATE WHO POSSESSES OR USES EIGHT OUNCES OR MORE OF MARIHUANA SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 18-18-406 (4) (b).

(3) FOR PURPOSES OF THIS SECTION, "DETENTION FACILITY" MEANS ANY BUILDING, STRUCTURE, ENCLOSURE, VEHICLE, INSTITUTION, OR PLACE, WHETHER PERMANENT OR TEMPORARY, FIXED OR MOBILE, WHERE PERSONS ARE OR MAY BE LAWFULLY HELD IN CUSTODY OR CONFINEMENT UNDER THE AUTHORITY OF THE STATE OF COLORADO OR ANY POLITICAL SUBDIVISION OF THE STATE OF COLORADO.

**SECTION 17.** The introductory portion to 18-18-404 (1), Colorado Revised Statutes, is amended to read:

**18-18-404. Unlawful use of a controlled substance.** (1) Except as is otherwise provided for offenses concerning marihuana and marihuana concentrate in ~~section 18-18-406~~, SECTIONS 18-18-406 AND 18-18-406.5, any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense such controlled substance for bona fide medical needs, commits:

**SECTION 18.** 16-13-303 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**16-13-303. Class 1 public nuisance.** (3) The following shall be deemed class 1 public nuisances and be subject to forfeiture and distributed as provided in section 16-13-311 (3), and no property rights shall exist in them:

(d) ALL EQUIPMENT OF ANY KIND, INCLUDING BUT NOT LIMITED TO COMPUTERS AND ANY TYPE OF COMPUTER HARDWARE, SOFTWARE, OR OTHER EQUIPMENT, USED IN COMMITTING SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION 18-6-403, C.R.S., OR COMPUTER CRIME, AS DESCRIBED IN SECTION 18-5.5-102, C.R.S.

**SECTION 19.** The introductory portion to 18-3-412.5 (4) (a), Colorado Revised Statutes, is amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (4) (a) Any person who is required to register pursuant to subsection (1) OR (3.5) of this section and who commits any of the acts specified in this paragraph (a) commits the offense of failure to register as a sex offender:

**SECTION 20.** 18-6.5-103 (6), Colorado Revised Statutes, is amended to read:

**18-6.5-103. Crimes against at-risk adults and at-risk juveniles - classifications.** (6) Any person who knowingly neglects an at-risk adult OR AN AT-RISK JUVENILE or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk adult OR AN AT-RISK JUVENILE commits a class 1 misdemeanor.

**SECTION 21.** 18-1-409 (1), Colorado Revised Statutes, is amended to read:

**18-1-409. Appellate review of sentence for a felony.** (1) When sentence is imposed upon any person following a conviction of any felony, other than a class 1 felony in which a death sentence is automatically reviewed pursuant to section 16-11-103 (6), C.R.S., or section 16-11-802 (6), C.R.S., the person convicted shall have the right to one appellate review of the propriety of the sentence, having regard to the nature of the offense, the character of the offender, and the public interest, and the manner in which the sentence was imposed, including the sufficiency and accuracy of the information on which it was based; EXCEPT THAT, IF THE SENTENCE IS WITHIN A RANGE AGREED UPON BY THE PARTIES PURSUANT TO A PLEA AGREEMENT, THE DEFENDANT SHALL NOT HAVE THE RIGHT OF APPELLATE REVIEW OF THE PROPRIETY OF THE SENTENCE. The procedures to be employed in the review shall be as provided by supreme court rule.

**SECTION 22.** 18-1-105 (9.5) (a), Colorado Revised Statutes, is amended 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) AT THE TIME OF THE COMMISSION OF THE FELONY, the defendant was charged with or was on bond for a ~~previous felony at the time of the commission of the felony, for which previous felony the defendant was subsequently convicted~~ IN A PREVIOUS



CASE AND THE DEFENDANT WAS CONVICTED OF ANY FELONY IN THE PREVIOUS CASE;

**SECTION 23. Effective date - applicability.** This act shall take effect July 1, 1999, and shall apply to offenses committed on or after said date.

**SECTION 24. 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 24, 1999