

CHAPTER 229

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 00-1158

BY REPRESENTATIVES Veiga, Kaufman, Hagedorn, Alexander, Allen, Chavez, Clarke, Coleman, Gagliardi, Gordon, Lee, Mace, McElhany, Miller, Paschall, Plant, Ragsdale, Scott, Tochtrop, Tool, Vigil, and S. Williams; also SENATORS Wham, Dennis, Epps, Hernandez, Reeves, and Sullivant.

AN ACT

CONCERNING DOMESTIC VIOLENCE, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 18-6-801, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-6-801. Domestic violence - sentencing. (7) IN THE EVENT A PERSON IS CONVICTED IN THIS STATE ON OR AFTER JULY 1, 2000, OF ANY OFFENSE WHICH WOULD OTHERWISE BE A MISDEMEANOR, THE UNDERLYING FACTUAL BASIS OF WHICH HAS BEEN FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3 (1), AND THAT PERSON HAS BEEN THREE TIMES PREVIOUSLY CONVICTED, UPON CHARGES SEPARATELY BROUGHT AND TRIED AND ARISING OUT OF SEPARATE AND DISTINCT CRIMINAL EPISODES, OF A FELONY OR MISDEMEANOR OR MUNICIPAL ORDINANCE VIOLATION, THE UNDERLYING FACTUAL BASIS OF WHICH WAS FOUND BY THE COURT ON THE RECORD TO INCLUDE AN ACT OF DOMESTIC VIOLENCE, THE PROSECUTING ATTORNEY MAY PETITION THE COURT TO ADJUDGE THE PERSON AN HABITUAL DOMESTIC VIOLENCE OFFENDER, AND SUCH PERSON SHALL BE CONVICTED OF A CLASS 5 FELONY. IF THE PERSON IS ADJUDGED AN HABITUAL DOMESTIC VIOLENCE OFFENDER, THE COURT SHALL SENTENCE THE PERSON PURSUANT TO THE PRESUMPTIVE RANGE SET FORTH IN SECTION 18-1-105 FOR A CLASS 5 FELONY. THE FORMER CONVICTIONS AND JUDGMENTS SHALL BE SET FORTH IN APT WORDS IN THE INDICTMENT OR INFORMATION.

SECTION 2. 18-6-803.5 (1) and (1.5) (d), Colorado Revised Statutes, are amended to read:

18-6-803.5. Crime of violation of a restraining order - penalty - peace

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

officers' duties. (1) A person commits the crime of violation of a restraining order if such person contacts, harasses, injures, intimidates, molests, threatens, or touches any protected person or enters or remains on premises or comes within a specified distance of a protected person or premises OR VIOLATES ANY OTHER PROVISION OF A RESTRAINING ORDER TO PROTECT THE PROTECTED PERSON FROM IMMINENT DANGER TO LIFE OR HEALTH, and such conduct is prohibited by a restraining order, after such person has been personally served with any such order or otherwise has acquired from the court actual knowledge of the contents of any such order.

(1.5) As used in this section:

(d) "Restraining order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises OR ANY OTHER PROVISION TO PROTECT THE PROTECTED PERSON FROM IMMINENT DANGER TO LIFE OR HEALTH, that is issued by a court of this state or a municipal court, and that is issued pursuant to article 14 of title 13, C.R.S., sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., section 18-1-1001, section 19-2-707, C.R.S., section 19-3-316, C.R.S., section 19-4-111, C.R.S., or rule 365 of the Colorado rules of county court civil procedure, an order issued as part of the proceedings concerning a criminal municipal ordinance violation, or any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises. For purposes of this section only, "restraining order" includes any order that amends, modifies, supplements, or supersedes the initial restraining order. "Restraining order" also includes any foreign protection order as defined in section 18-6-803.8.

SECTION 3. 13-14-101 (3), Colorado Revised Statutes, is amended to read:

13-14-101. Definitions. For purposes of this article, unless the context otherwise requires:

(3) "Stalking" means the crime of ~~harassment by~~ stalking as described in ~~section 18-9-111~~ SECTION 18-9-111 (4), C.R.S.

SECTION 4. The introductory portion to 13-14-102 and 13-14-102 (5) and (6) Colorado Revised Statutes, are amended to read:

13-14-102. Civil restraining orders. (1) Any municipal court of record, if authorized by the municipal governing body, any county court, and any district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order AGAINST AN ADULT OR AGAINST A JUVENILE WHO IS TEN YEARS OF AGE OR OLDER for any of the following purposes:

(5) Upon the filing of a complaint duly verified, alleging that the defendant has committed acts that would constitute grounds for a civil restraining order, any judge or magistrate, after hearing the evidence and being fully satisfied therein that sufficient cause exists, may issue a temporary civil restraining order to prevent the actions complained of and a citation directed to the defendant commanding the

defendant to appear before the court at a specific time and date and to show cause, if any, why said temporary civil restraining order should not be made permanent; except that, if the temporary restraining order is issued by the district court in connection with an action filed under the "Uniform Dissolution of Marriage Act", article 10 of title 14, C.R.S., or by the juvenile court under the "Uniform Parentage Act", article 4 of title 19, C.R.S., the court may dispense with the issuance of a citation and require that the temporary restraining order remain in effect until revoked, modified, or terminated as provided in section 14-10-108, C.R.S. In addition, the court may order any other relief that the court deems appropriate. Complaints may be filed by persons seeking protection for themselves or for others as provided in section 26-3.1-102 (1) (b) and (1) (c), C.R.S. IF THE DEFENDANT FAILS TO APPEAR BEFORE THE COURT FOR THE SHOW CAUSE HEARING AT THE TIME AND ON THE DATE IDENTIFIED IN THE CITATION ISSUED BY THE COURT AND THE COURT FINDS THAT THE DEFENDANT WAS PROPERLY SERVED WITH THE TEMPORARY RESTRAINING ORDER AND SUCH CITATION, IT SHALL NOT BE NECESSARY TO RE-SERVE THE DEFENDANT TO MAKE THE RESTRAINING ORDER PERMANENT.

(6) A copy of the complaint together with a copy of the temporary civil restraining order and a copy of the citation shall be served upon the defendant and upon the person to be protected, if the complaint was filed by another person, in accordance with the rules for service of process as provided in rule 304 of the rules of county court civil procedure or rule 4 of the Colorado rules of civil procedure. The citation shall inform the defendant that, if the defendant fails to appear in court in accordance with the terms of the citation, a bench warrant may be issued for the arrest of the defendant and if the restraining order is to prevent domestic abuse, the temporary restraining order previously entered by the court shall be made permanent without further notice or service upon the defendant.

SECTION 5. 13-14-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

13-14-102. Civil restraining orders. (2.5) VENUE FOR FILING A MOTION OR COMPLAINT PURSUANT TO THIS SECTION IS PROPER IN ANY COUNTY WHERE THE ACTS THAT ARE THE SUBJECT OF THE MOTION OR COMPLAINT OCCUR, IN ANY COUNTY WHERE ONE OF THE PARTIES RESIDES, OR IN ANY COUNTY WHERE ONE OF THE PARTIES IS EMPLOYED. THIS REQUIREMENT FOR VENUE DOES NOT PROHIBIT THE CHANGE OF VENUE TO ANY OTHER COUNTY APPROPRIATE UNDER APPLICABLE LAW.

SECTION 6. Repeal. 13-14-102 (19), Colorado Revised Statutes, is repealed as follows:

13-14-102. Civil restraining orders. (19) ~~This section shall not apply to any claim of domestic abuse against a juvenile. Such claims shall be addressed by the juvenile court pursuant to section 19-2-707, C.R.S.~~

SECTION 7. Part 8 of article 22 of title 39, Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

PART 8
DOMESTIC ABUSE PROGRAM
VOLUNTARY CONTRIBUTION

39-22-801. Voluntary contribution designation - procedure. For income tax years commencing on or after ~~January 1, 1984~~, JANUARY 1, 2000, but prior to January 1, 2007, each Colorado state individual income tax return form shall contain a line whereby each individual taxpayer may designate the amount of the contribution, if any, the taxpayer wishes to make to the Colorado domestic abuse program fund.

39-22-802. Contributions credited to Colorado domestic abuse program fund - appropriation. (1) The department of revenue shall determine annually the total amount designated pursuant to section 39-22-801 and shall report such amount to the state treasurer and to the general assembly. The state treasurer shall credit such amount to the Colorado domestic abuse program fund, a cash fund which is hereby established in the state treasury. The controller, upon presentation of vouchers properly drawn and signed by the executive director of the department of human services, pursuant to section 26-7.5-105, C.R.S., shall issue warrants drawn on the Colorado domestic abuse program fund. All moneys in the Colorado domestic abuse program fund at the end of a fiscal year, after appropriations made pursuant to subsection (3) of this section, shall remain in the fund to be used for the purposes set forth in article 7.5 of title 26, C.R.S., and shall not revert to the general fund. Any interest earned on moneys in the fund shall remain in the fund to be used for the purposes of article 7.5 of title 26, C.R.S.

(2) The executive director of the department of human services shall sign vouchers to draw on the Colorado domestic abuse program fund exclusively for the purpose of exercising his or her authority under section 26-7.5-104, C.R.S.

(3) The general assembly shall appropriate annually from the Colorado domestic abuse program fund:

(a) To the department of human services such amount as is necessary for carrying out the purposes set forth in article 7.5 of title 26, C.R.S., including the department's administrative costs in connection therewith;

(b) To the department of revenue its costs of administering the income tax refunds designated as contributions to the Colorado domestic abuse program fund.

39-22-803. Repeal of part. This part 8 is repealed, effective ~~January 1, 2000~~, JANUARY 1, 2007.

SECTION 8. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-127. 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 H.B. 00-1158, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY:

(a) 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 SIX HUNDRED TWENTY-FIVE THOUSAND TWO HUNDRED THREE DOLLARS (\$625,203).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, 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 TWO HUNDRED NINETY-ONE THOUSAND SEVEN HUNDRED SIXTY-ONE DOLLARS (\$291,761).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWO HUNDRED THIRTY-SIX THOUSAND ONE HUNDRED FORTY-TWO DOLLARS (\$236,142).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THREE HUNDRED FORTY-SIX THOUSAND THREE HUNDRED FORTY-TWO DOLLARS (\$346,342).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THREE HUNDRED FORTY-SIX THOUSAND THREE HUNDRED FORTY-TWO DOLLARS (\$346,342).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THREE HUNDRED FORTY-SIX THOUSAND THREE HUNDRED FORTY-TWO DOLLARS (\$346,342).

SECTION 9. Repeal. 19-2-707 (1) (b), Colorado Revised Statutes, is repealed as follows:

19-2-707. Mandatory restraining order. (1) (b) ~~A restraining order to prevent domestic abuse, as defined in section 14-4-101 (2), C.R.S., may be issued pursuant to this section against any juvenile and the juvenile's parents or legal guardian, based upon the standards set forth in section 13-14-102 (4), C.R.S.~~

SECTION 10. 24-75-302 (2) (m) and (2) (n), Colorado Revised Statutes, are amended 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, 2002, 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, one hundred million dollars, plus one hundred eighty-four thousand ninety dollars pursuant to H.B. 97-1186; plus 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; plus twelve thousand two hundred seventeen dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus seventy-one thousand two hundred seven dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly, PLUS SIX HUNDRED TWENTY-FIVE THOUSAND TWO HUNDRED THREE DOLLARS PURSUANT TO H.B. 00-1158, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY;

(n) On July 1, 2001, one hundred million dollars, plus one hundred fifty-four thousand six hundred thirty-six dollars pursuant to H.B. 97-1186; plus 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; plus nine thousand eight hundred ninety dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus three hundred forty-nine thousand fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly, PLUS TWO HUNDRED NINETY-ONE THOUSAND SEVEN HUNDRED SIXTY-ONE DOLLARS PURSUANT TO H.B. 00-1158, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SECOND GENERAL ASSEMBLY; and

SECTION 11. Effective date-applicability. This act shall take effect July 1, 2000, and shall apply to offenses committed on or after said date.

SECTION 12. 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 26, 2000