

CHAPTER 277

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 01-1204

BY REPRESENTATIVE(S) Hefley, Cadman, Clapp, Crane, Fairbank, Johnson, King, Mitchell, Nuñez, Scott, Williams T., Cloer, Garcia, Hoppe, Lawrence, Lee, Miller, Paschall, Romanoff, Schultheis, Spradley, Stafford, Tapia, Weddig, White, Williams S., and Witwer;
also SENATOR(S) Hagedorn and Cairns.

AN ACT

CONCERNING ENHANCED PENALTIES FOR OFFENSES COMMITTED AGAINST PREGNANT WOMEN, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 18-1-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1-105. Felonies classified - presumptive penalties. (13) (a) THE COURT, IF IT SENTENCES A DEFENDANT WHO IS CONVICTED OF ANY ONE OR MORE OF THE OFFENSES SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (13) TO INCARCERATION, SHALL SENTENCE THE DEFENDANT TO A TERM OF AT LEAST THE MIDPOINT, BUT NOT MORE THAN TWICE THE MAXIMUM, OF THE PRESUMPTIVE RANGE AUTHORIZED FOR THE PUNISHMENT OF THE OFFENSE OF WHICH THE DEFENDANT IS CONVICTED IF THE COURT MAKES THE FOLLOWING FINDINGS ON THE RECORD:

(I) THE VICTIM OF THE OFFENSE WAS PREGNANT AT THE TIME OF COMMISSION OF THE OFFENSE; AND

(II) THE DEFENDANT KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE VICTIM OF THE OFFENSE WAS PREGNANT; AND

(III) THE UNDERLYING FACTUAL BASIS OF THE OFFENSE INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

(b) THE PROVISIONS OF THIS SUBSECTION (13) SHALL APPLY TO THE FOLLOWING OFFENSES:

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

- (I) MURDER IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-103;
- (II) MANSLAUGHTER, AS DESCRIBED IN SECTION 18-3-104;
- (III) CRIMINALLY NEGLIGENT HOMICIDE, AS DESCRIBED IN SECTION 18-3-105;
- (IV) VEHICULAR HOMICIDE, AS DESCRIBED IN SECTION 18-3-106;
- (V) ASSAULT IN THE FIRST DEGREE, AS DESCRIBED IN SECTION 18-3-202;
- (VI) ASSAULT IN THE SECOND DEGREE, AS DESCRIBED IN SECTION 18-3-203;
- (VII) VEHICULAR ASSAULT, AS DESCRIBED IN SECTION 18-3-205.

(c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (13) TO THE CONTRARY, FOR ANY OF THE OFFENSES SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (13) THAT CONSTITUTE CRIMES OF VIOLENCE, THE COURT SHALL SENTENCE THE DEFENDANT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 16-11-309, C.R.S.

SECTION 2. 18-1-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-1-106. Misdemeanors classified - penalties. (6) FOR A DEFENDANT WHO IS CONVICTED OF ASSAULT IN THE THIRD DEGREE, AS DESCRIBED IN SECTION 18-3-204, THE COURT, IN ADDITION TO ANY FINE THE COURT MAY IMPOSE, SHALL SENTENCE THE DEFENDANT TO A TERM OF IMPRISONMENT OF AT LEAST SIX MONTHS, BUT NOT LONGER THAN THE MAXIMUM SENTENCE AUTHORIZED FOR THE OFFENSE, AS SPECIFIED IN THIS SECTION, WHICH SENTENCE SHALL NOT BE SUSPENDED IN WHOLE OR IN PART, IF THE COURT MAKES THE FOLLOWING FINDINGS ON THE RECORD:

(a) THE VICTIM OF THE OFFENSE WAS PREGNANT AT THE TIME OF COMMISSION OF THE OFFENSE; AND

(b) THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE VICTIM OF THE OFFENSE WAS PREGNANT; AND

(c) THE UNDERLYING FACTUAL BASIS OF THE OFFENSE INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1).

SECTION 3. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-133. Appropriation to comply with section 2-2-703 - HB 01-1204. (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. 01-1204, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, 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 TWENTY-SIX THOUSAND SIX HUNDRED TWENTY-NINE DOLLARS (\$26,629).

(b) 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 TEN THOUSAND FIFTY-EIGHT DOLLARS (\$10,058).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, 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 SEVEN THOUSAND TWO HUNDRED FIFTEEN DOLLARS (\$7,215).

SECTION 4. 24-75-302 (2) (p), Colorado Revised Statutes, is 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, 2005, 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:

(p) On July 1, 2003, one hundred million dollars PLUS TWENTY-SIX THOUSAND SIX HUNDRED TWENTY-NINE DOLLARS PURSUANT TO H.B. 01-1204, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2001, and shall apply to offenses committed 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 5, 2001