

CHAPTER 155

CRIMINAL LAW AND PROCEDURE

SENATE BILL 02-175

BY SENATOR(S) Reeves, Hanna, and Tupa;
also REPRESENTATIVE(S) Jameson, Coleman, Groff, Grossman, Harvey, Jahn, Marshall, Romanoff, Sanchez, and Williams S.

AN ACT**CONCERNING CLARIFICATION OF THE CRIME OF SEXUAL CONDUCT IN PENAL INSTITUTIONS.**

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

SECTION 1. 18-7-701, Colorado Revised Statutes, is amended to read:

18-7-701. Sexual conduct in penal institutions. (1) An employee, CONTRACT EMPLOYEE, OR VOLUNTEER of a ~~correctional facility or jail~~ CRIMINAL JUSTICE FACILITY OR AN INDIVIDUAL WHO PERFORMS WORK OR VOLUNTEER FUNCTIONS IN A CRIMINAL JUSTICE FACILITY OR FOR THE DEPARTMENT OF CORRECTIONS who engages in sexual conduct with a person who is in lawful custody ~~and confinement~~ in a ~~correctional facility operated by or under contract with the department of corrections or in a county or municipal jail~~ ~~commits~~ CRIMINAL JUSTICE FACILITY COMMITS THE OFFENSE OF SEXUAL CONDUCT IN A PENAL INSTITUTION.

~~(a) A class 6 felony if the sexual conduct consists solely of sexual contact;~~

~~(b) A class 5 felony if the sexual conduct includes sexual intrusion or sexual penetration.~~

(2) For purposes of this section:

(a) "CRIMINAL JUSTICE FACILITY" MEANS A CORRECTIONAL FACILITY, AS DEFINED IN SECTION 17-1-102 (1.7), C.R.S., OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF CORRECTIONS OR A JAIL.

(b) "Sexual conduct" means sexual contact as defined in section 18-3-401 (4), sexual intrusion as defined in section 18-3-401 (5), or sexual penetration as defined in section 18-3-401 (6). "Sexual conduct" does not include acts of an employee of

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

a ~~correctional~~ CRIMINAL JUSTICE facility ~~or jail~~ or a person who has custody of another person that are performed to carry out the necessary duties of the employee or the person with custody.

(3) SEXUAL CONDUCT IN A PENAL INSTITUTION IS A CLASS 5 FELONY IF THE SEXUAL CONDUCT INCLUDES SEXUAL INTRUSION OR SEXUAL PENETRATION AND IS COMMITTED BY AN EMPLOYEE OR CONTRACT EMPLOYEE OF A CRIMINAL JUSTICE FACILITY OR BY AN EMPLOYEE, CONTRACT EMPLOYEE, OR INDIVIDUAL WHO PERFORMS WORK FUNCTIONS IN A CRIMINAL JUSTICE FACILITY OR FOR THE DEPARTMENT OF CORRECTIONS.

(4) SEXUAL CONDUCT IN A PENAL INSTITUTION IS A CLASS 6 FELONY IF:

(a) THE SEXUAL CONDUCT CONSISTS SOLELY OF SEXUAL CONTACT AND IS COMMITTED BY AN EMPLOYEE OR CONTRACT EMPLOYEE OF A CRIMINAL JUSTICE FACILITY OR BY AN EMPLOYEE, CONTRACT EMPLOYEE, OR INDIVIDUAL WHO PERFORMS WORK FUNCTIONS IN A CRIMINAL JUSTICE FACILITY OR FOR THE DEPARTMENT OF CORRECTIONS; OR

(b) THE SEXUAL CONDUCT INCLUDES SEXUAL INTRUSION OR SEXUAL PENETRATION AND IS COMMITTED BY A VOLUNTEER.

(5) SEXUAL CONDUCT IN A PENAL INSTITUTION IS A CLASS 1 MISDEMEANOR IF THE SEXUAL CONDUCT CONSISTS SOLELY OF SEXUAL CONTACT AND IS COMMITTED BY A VOLUNTEER.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 2002, and shall apply to offenses committed on or after said date.

SECTION 3. 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, 2002