

CHAPTER 359

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 06-1092

BY REPRESENTATIVE(S) Schultheis, Harvey, Lundberg, Penry, Welker, Berens, Coleman, Crane, Garcia, Green, Hefley, Hoppe, Jahn, Kerr A., Kerr J., King, Larson, Liston, Madden, Marshall, May M., McCluskey, Merrifield, Paccione, Romanoff, Rose, Stafford, Sullivan, Todd, White, Witwer, Clapp, Cloer, Frangas, and Knoedler;
also SENATOR(S) Jones, Brophy, Johnson, Bacon, Boyd, Dyer, Entz, Evans, Fitz-Gerald, Gordon, Groff, Isgar, Keller, Kester, Lamborn, May R., Mitchell, Owen, Sandoval, Shaffer, Spence, Tapia, Taylor, Teck, Tochtrop, Traylor, Tupa, Veiga, Wiens, Williams, and Windels.

AN ACT**CONCERNING INCREASING THE PENALTY FOR SEXUAL EXPLOITATION OF A CHILD BY POSSESSION OF SEXUALLY EXPLOITATIVE MATERIAL, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 18-6-403 (5), Colorado Revised Statutes, is amended to read:

18-6-403. Sexual exploitation of children. (5) The sexual exploitation of a child is a class 3 felony; except that sexual exploitation of a child by possession of sexually exploitative material pursuant to paragraph (b.5) of subsection (3) of this section is a class ~~1 misdemeanor~~ **6 FELONY**, but a second or subsequent offense by such possession is a class 4 felony.

SECTION 2. 16-22-112 (2) (b) (II) (D), Colorado Revised Statutes, is amended to read:

16-22-112. Release of information - law enforcement agencies. (2) (b) A local law enforcement agency may post on its website sex offender registration information of a person from its registration list only if the person is:

(II) An adult convicted of a second or subsequent offense of any of the following misdemeanors:

(D) Sexual exploitation of a child by possession of sexually exploitive material as described in section 18-6-403, ~~(3) (b.5)~~, C.R.S.;

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

SECTION 3. 18-1.3-1004 (4) (b) (II), Colorado Revised Statutes, is amended to read:

18-1.3-1004. Indeterminate sentence. (4) (b) The provisions of this subsection (4) shall apply to any person who is convicted of or pleads guilty or nolo contendere to any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(II) ~~Felony~~ Sexual exploitation of children, as described in section 18-6-403;

SECTION 4. Repeal. 22-60.5-107 (2) (b) (V), Colorado Revised Statutes, is repealed as follows:

22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization. (2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(b) When the applicant or holder is convicted of, pleads nolo contendere to, or receives a deferred sentence for a violation of any law of this state or any counterpart municipal law of this state involving one of the following offenses:

(V) ~~Misdemeanor sexual exploitation of children as described in section 18-6-403, C.R.S.;~~

SECTION 5. 24-31-305 (1.5) (g), Colorado Revised Statutes, is amended to read:

24-31-305. Certification - issuance - renewal - revocation. (1.5) The P.O.S.T. board shall deny certification to any person who has been convicted of:

(g) Any misdemeanor in violation of ~~sections~~ SECTION 18-6-403 (3) (b.5), AS IT EXISTED PRIOR TO JULY 1, 2006, and SECTION 18-7-208, C.R.S.; or

SECTION 6. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-159. Appropriation to comply with section 2-2-703 - HB 06-1092.
(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. 06-1092, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, 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 THIRTY-FIVE THOUSAND NINE HUNDRED SEVENTY DOLLARS (\$435,970).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, 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 ONE HUNDRED THIRTY-FOUR THOUSAND SIXTY-FIVE DOLLARS (\$134,065).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, 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 ONE HUNDRED THIRTY-FOUR THOUSAND SIXTY-FIVE DOLLARS (\$134,065).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, 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 ONE HUNDRED THIRTY-FOUR THOUSAND SIXTY-FIVE DOLLARS (\$134,065).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, 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 ONE HUNDRED THIRTY-FOUR THOUSAND SIXTY-FIVE DOLLARS (\$134,065).

SECTION 7. 24-75-302 (2) (s), Colorado Revised Statutes, is amended to read:

24-75-302. Capital construction fund - capital assessment fees - calculation.

(2) (s) On July 1, 2006, twenty-two thousand nine hundred twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the third extraordinary session of the sixty-third general assembly; plus two hundred ninety-one thousand seven hundred sixty-one dollars pursuant to H.B. 03-1004, enacted at the first regular session of the sixty-fourth general assembly; plus one hundred twenty-five thousand forty-one dollars pursuant to H.B. 03-1138, enacted at the first regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 03-1213, enacted at the first regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 03-1317, enacted at the first regular session of the sixty-fourth general assembly; plus ninety thousand three hundred seven dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 04-1016, enacted at the second regular session of the sixty-fourth general assembly; PLUS FOUR HUNDRED THIRTY-FIVE THOUSAND NINE HUNDRED SEVENTY DOLLARS PURSUANT TO H.B. 06-1092, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY;

SECTION 8. Effective date - applicability. This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

SECTION 9. 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 7, 2006