

CHAPTER 360

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 06-1151

BY REPRESENTATIVE(S) Hefley, Berens, Borodkin, Buescher, Coleman, Curry, Jahn, Kerr J., Liston, May M., McCluskey, Paccione, Romanoff, Stafford, Sullivan, Todd, White, and Witwer;
also SENATOR(S) Groff, Boyd, Dyer, Entz, Fitz-Gerald, Grossman, Isgar, Jones, Keller, Kester, May R., Shaffer, Teck, Tochtrop, Traylor, Tupa, Veiga, Wiens, and Williams.

AN ACT**CONCERNING THE CRIME OF FELONY CHILD ABUSE, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 18-6-401 (7) (a) (V), (7) (a) (VI), (7) (b) (I), and (7) (b) (II), Colorado Revised Statutes, are amended, and the said 18-6-401 (7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-6-401. Child abuse. (7) (a) Where death or injury results, the following shall apply:

(V) When a person acts knowingly or recklessly and the child abuse results in any injury other than serious bodily injury, it is a class 1 misdemeanor; EXCEPT THAT, IF THE UNDERLYING FACTUAL BASIS OF THE CHILD ABUSE, WHICH WOULD CONSTITUTE A MISDEMEANOR, HAS BEEN FOUND BY THE TRIER OF FACT TO INCLUDE ONE OF THE ACTS DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7), SUBSEQUENT TO A PRIOR CONVICTION UNDER THIS SECTION, THEN IT IS A CLASS 5 FELONY.

(VI) When a person acts with criminal negligence and the child abuse results in any injury other than serious bodily injury to the child, it is a class 2 misdemeanor; EXCEPT THAT, IF THE UNDERLYING FACTUAL BASIS OF THE CHILD ABUSE, WHICH WOULD CONSTITUTE A MISDEMEANOR, HAS BEEN FOUND BY THE TRIER OF FACT TO INCLUDE ONE OF THE ACTS DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7), SUBSEQUENT TO A PRIOR CONVICTION UNDER THIS SECTION, THEN IT IS A CLASS 5 FELONY.

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

(b) Where no death or injury results, the following shall apply:

(I) An act of child abuse when a person acts knowingly or recklessly is a class 2 misdemeanor; EXCEPT THAT, IF THE UNDERLYING FACTUAL BASIS OF THE CHILD ABUSE, WHICH WOULD CONSTITUTE A MISDEMEANOR, HAS BEEN FOUND BY THE TRIER OF FACT TO INCLUDE ONE OF THE ACTS DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7), SUBSEQUENT TO A PRIOR CONVICTION UNDER THIS SECTION, THEN IT IS A CLASS 5 FELONY.

(II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor; EXCEPT THAT, IF THE UNDERLYING FACTUAL BASIS OF THE CHILD ABUSE, WHICH WOULD CONSTITUTE A MISDEMEANOR, HAS BEEN FOUND BY THE TRIER OF FACT TO INCLUDE ONE OF THE ACTS DESCRIBED IN PARAGRAPH (e) OF THIS SUBSECTION (7), SUBSEQUENT TO A PRIOR CONVICTION UNDER THIS SECTION, THEN IT IS A CLASS 5 FELONY.

(e) IF A PERSON COMMITS CHILD ABUSE BY ENGAGING IN ONE OF THE FOLLOWING ACTS, THEN SUCH PERSON SHALL BE PUNISHED FOR A SECOND OR SUBSEQUENT CONVICTION AS PROVIDED IN SUBPARAGRAPH (V) OR (VI) OF PARAGRAPH (a) OF THIS SUBSECTION (7) OR AS PROVIDED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (b) OF THIS SUBSECTION (7):

(I) A CONTINUED PATTERN OF CONDUCT THAT RESULTS IN MALNOURISHMENT OR LACK OF PROPER MEDICAL CARE OF THE CHILD;

(II) A CONTINUED PATTERN OF CRUEL PUNISHMENT OR UNREASONABLE ISOLATION OR CONFINEMENT OF THE CHILD;

(III) REPEATED THREATS BY SUCH PERSON OF HARM OR DEATH TO THE CHILD OR TO A SIGNIFICANT PERSON IN THE CHILD'S LIFE, WHICH THREATS ARE MADE IN THE PRESENCE OF THE CHILD;

(IV) A CONTINUED PATTERN OF ACTS OF DOMESTIC VIOLENCE COMMITTED BY SUCH PERSON, AS THAT TERM IS DEFINED IN SECTION 18-6-800.3, IN THE PRESENCE OF THE CHILD; OR

(V) A CONTINUED PATTERN OF EXTREME DEPRIVATION OF HYGIENIC OR SANITARY CONDITIONS IN THE CHILD'S DAILY LIVING ENVIRONMENT.

SECTION 2. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-153. Appropriation to comply with section 2-2-703 - HB 06-1151.

(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. 06-1151, 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 EIGHTY-SEVEN THOUSAND ONE HUNDRED NINETY-FOUR DOLLARS (\$87,194).

(b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, 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 SIXTY-NINE THOUSAND SEVEN HUNDRED FIFTY-FIVE DOLLARS (\$69,755).

(II) 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 TWENTY-SIX THOUSAND EIGHT HUNDRED THIRTEEN DOLLARS (\$26,813).

(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 FORTY-EIGHT THOUSAND TWO HUNDRED SIXTY-THREE DOLLARS (\$48,263).

(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 FORTY-EIGHT THOUSAND TWO HUNDRED SIXTY-THREE DOLLARS (\$48,263).

(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 FORTY-EIGHT THOUSAND TWO HUNDRED SIXTY-THREE DOLLARS (\$48,263).

SECTION 3. 24-75-302 (2) (s) and (2) (t), 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, 2008, 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:

(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 EIGHTY-SEVEN THOUSAND ONE HUNDRED NINETY-FOUR DOLLARS PURSUANT TO H.B. 06-1151, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY;

(t) On July 1, 2007, four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 03-1004, enacted at the first regular session of the sixty-fourth general assembly; plus fifty-five thousand five hundred seventy-four dollars pursuant to H.B. 03-1317, enacted at the first regular session of the sixty-fourth general assembly; plus thirteen thousand eight hundred ninety-three dollars pursuant to H.B. 04-1021, enacted at the second regular session of the sixty-fourth general assembly; PLUS SIXTY-NINE THOUSAND SEVEN HUNDRED FIFTY-FIVE DOLLARS PURSUANT TO H.B. 06-1151, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY;

SECTION 4. Effective date - applicability. This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

SECTION 5. 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