

CHAPTER 383

CRIMINAL LAW AND PROCEDURE

SENATE BILL 07-114

BY SENATOR(S) Shaffer, Boyd, Kopp, Morse, Penry, Renfro, Schultheis, Schwartz, Spence, Ward, and Wiens;
also REPRESENTATIVE(S) Carroll T., Borodkin, Casso, Gardner B., Gibbs, Jahn, King, Labuda, Liston, Rice, Romanoff,
Stafford, Todd, and Witwer.

AN ACT

CONCERNING PROVISIONS TO STRENGTHEN THE SUBSTANTIVE CRIMINAL LAW OF THE STATE.

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

SECTION 1. 12-47-903 (5), Colorado Revised Statutes, is amended to read:

12-47-903. Violations - penalties. (5) Any person who knowingly violates the provisions of section 12-47-901 (1) ~~(a)~~ (a.5), (1) (d), or (1) (k), or any person who knowingly induces, aids, or encourages a person under the age of eighteen years to violate the provisions of section 12-47-901 (1) ~~(a)~~ (a.5), (1) (b), or (1) (c) may be proceeded against pursuant to section 18-6-701, C.R.S., for contributing to the delinquency of a minor.

SECTION 2. 16-4-201.5 (1) (e) and (1) (f), Colorado Revised Statutes, are amended, and the said 16-4-201.5 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

16-4-201.5. Right to bail after a conviction - exceptions. (1) The court may grant bail after a person is convicted, pending sentencing or appeal, only as provided by this part 2; except that no bail is allowed for persons convicted of:

(e) Any felony during the commission of which the person used a firearm; ~~or~~

(f) A crime of possession of a weapon by a previous offender, as described in section 18-12-108 (2) (b), (2) (c), (4) (b), (4) (c), or (5), C.R.S.; OR

(g) CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401 (7) (a) (I), 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. 16-22-103 (1), Colorado Revised Statutes, is amended to read:

16-22-103. Sex offender registration - required - applicability - exception.

(1) Effective July 1, 1998, the following persons shall be required to register pursuant to the provisions of section 16-22-108 and shall be subject to the requirements and other provisions specified in this article:

(a) Any person who was convicted on or after July 1, 1991, in the state of Colorado, of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., ~~or~~ enticement of a child, as described in section 18-3-305, C.R.S., OR INTERNET LURING OF A CHILD, AS DESCRIBED IN SECTION 18-3-306, C.R.S.;

(b) Any person who was convicted on or after July 1, 1991, in another state or jurisdiction, including but not limited to a military or federal jurisdiction, of an offense that, if committed in Colorado, would constitute an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., ~~or~~ enticement of a child, as described in section 18-3-305, C.R.S., OR INTERNET LURING OF A CHILD, AS DESCRIBED IN SECTION 18-3-306, C.R.S.; and

(c) Any person who was released on or after July 1, 1991, from the custody of the department of corrections of this state or any other state, having served a sentence for an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., ~~or~~ enticement of a child, as described in section 18-3-305, C.R.S., OR INTERNET LURING OF A CHILD, AS DESCRIBED IN SECTION 18-3-306, C.R.S.

SECTION 4. 18-1-503.5 (1), Colorado Revised Statutes, is amended to read:

18-1-503.5. Principles of criminal culpability. (1) If the criminality of conduct depends on a ~~child's~~ CHILD being younger than eighteen years of age and the child was in fact at least fifteen years of age, it shall be an affirmative defense that the defendant reasonably believed the child to be eighteen years of age or older. THIS AFFIRMATIVE DEFENSE SHALL NOT BE AVAILABLE IF THE CRIMINALITY OF CONDUCT DEPENDS ON THE DEFENDANT BEING IN A POSITION OF TRUST.

SECTION 5. 18-3-302 (4), Colorado Revised Statutes, is amended to read:

18-3-302. Second degree kidnapping. (4) (a) UNLESS IT IS A CLASS 2 FELONY UNDER SUBSECTION (3) OF THIS SECTION, second degree kidnapping is a class 3 felony if any of the following circumstances exist:

(I) The kidnapping is accomplished with intent to sell, trade, or barter the victim for consideration; or

(II) ~~If the kidnapping did not include sexual assault or robbery, but~~ THE KIDNAPPING is accomplished by the use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon; or

(III) ~~If~~ The kidnapping is accomplished by the perpetrator representing verbally or otherwise that he or she is armed with a deadly weapon.

(b) A defendant convicted ~~pursuant to~~ OF SECOND DEGREE KIDNAPPING COMMITTED UNDER ANY OF THE CIRCUMSTANCES SET FORTH IN this subsection (4) shall be sentenced by the court in accordance with the provisions of section 18-1.3-406.

SECTION 6. 18-12-101 (1) (e), Colorado Revised Statutes, is amended to read:

18-12-101. Definitions. (1) As used in this article, unless the context otherwise requires:

(e) "Gravity knife" means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force. ~~that when released is locked in place by means of a button, spring, lever, or other device.~~

SECTION 7. 18-24-101 (2) (b) and (2) (c), Colorado Revised Statutes, are amended, and the said 18-24-101 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-24-101. Definitions. As used in this article, unless the context otherwise requires:

(2) "Crime against a child" means any offense listed in section 18-3-411, or criminal attempt, conspiracy, or solicitation to commit any of those offenses, and any of the following offenses, or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(b) Child abuse, in violation of section 18-6-401; ~~or~~

(c) Contributing to the delinquency of a minor, in violation of section 18-6-701;
OR

(d) INTERNET LURING OF A CHILD, IN VIOLATION OF SECTION 18-3-306.

SECTION 8. 18-3-306 (1) and (2), Colorado Revised Statutes, are amended to read:

18-3-306. Internet luring of a child. (1) ~~A person~~ AN ACTOR commits internet luring of a child if the ~~person~~ ACTOR knowingly communicates a statement over a computer or computer network to a ~~child~~ PERSON WHO THE ACTOR KNOWS OR BELIEVES IS under fifteen years of age, describing explicit sexual conduct as defined in section 18-6-403 (2) (e), and, in connection with the communication, makes a statement persuading or inviting the ~~child~~ PERSON to meet the ~~person~~ ACTOR for any purpose, and the ~~person~~ ACTOR is more than four years older than the ~~child~~ PERSON OR THAN THE AGE THE ACTOR BELIEVES THE PERSON TO BE.

(2) It shall not be ~~an affirmative~~ A defense to this section that A MEETING DID NOT OCCUR.

(a) ~~A meeting did not occur; or~~

(b) ~~The child was actually a law enforcement officer posing as a child under~~

~~fifteen years of age.~~

SECTION 9. 18-4-412 (2) (a) and (2) (b), Colorado Revised Statutes, is amended to read:

18-4-412. Theft of medical records or medical information - penalty. (2) As used in this section:

(a) "Medical record" means the written or graphic documentation, sound recording, or computer record of ~~services~~ pertaining to medical, MENTAL HEALTH, and health care SERVICES which are performed at the direction of a physician or other licensed health care provider on behalf of a patient by physicians, dentists, nurses, technicians, emergency medical technicians, MENTAL HEALTH PROFESSIONALS, prehospital providers, or other health care personnel. "Medical record" includes such diagnostic documentation as X rays, electrocardiograms, electroencephalograms, and other test results.

(b) "Medical information" means any information contained in the medical record or any information pertaining to the medical, MENTAL HEALTH, and health care services performed at the direction of a physician or other licensed health care provider which is protected by the physician-patient privilege established by section 13-90-107 (1) (d), C.R.S.

SECTION 10. Repeal. 18-1.3-201 (2) (d) and (2.1), 18-18-404 (1) (b) and (1.1), and 18-18-405 (2) (b), (2.1), (2.3) (b), (2.5) (c), and (2.6), Colorado Revised Statutes, are repealed.

SECTION 11. Effective date - applicability. This act shall take effect July 1, 2007, 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 31, 2007