

CHAPTER 321

CRIMINAL LAW AND PROCEDURE

SENATE BILL 08-192

BY SENATOR(S) Ward and Williams, Hagedorn, Bacon, Boyd, Gordon, Mitchell S., Shaffer, Spence, and Tapia;
also REPRESENTATIVE(S) Rice and McGihon, Stafford, Labuda, Massey, Middleton, Primavera, Roberts, Todd, White, Green,
and Kerr A.

AN ACT**CONCERNING RESTRICTIONS AGAINST CERTAIN PICKETING IN A RESIDENTIAL AREA.**

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

SECTION 1. Part 1 of article 9 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-108.5. Residential picketing - legislative declaration. (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(I) THE PROTECTION AND PRESERVATION OF THE HOME IS A COMPELLING STATE INTEREST;

(II) RESIDENTS OF COLORADO ARE ENTITLED TO ENJOY A FEELING OF WELL-BEING, TRANQUILITY, AND PRIVACY IN THEIR HOMES AND DWELLINGS;

(III) THE PRACTICE OF TARGETED RESIDENTIAL PICKETING CAUSES EMOTIONAL DISTURBANCES AND DISTRESS TO THE OCCUPANTS AND HAS THE POTENTIAL TO INCITE BREACHES OF THE PEACE; AND

(IV) THE PRACTICE OF TARGETED RESIDENTIAL PICKETING DOES NOT SEEK TO DISSEMINATE A MESSAGE TO THE GENERAL PUBLIC BUT, INSTEAD, SEEKS TO HARASS AND INTRUDE ON THE PRIVACY OF THE TARGETED RESIDENT.

(b) THE GENERAL ASSEMBLY FURTHER FINDS THAT AMPLE ALTERNATIVE MEANS OF COMMUNICATION ARE AVAILABLE TO THOSE WHO WOULD CHOOSE TO ENGAGE IN PICKETING OUTSIDE A PERSON'S RESIDENCE.

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

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "RESIDENCE" MEANS ANY SINGLE-FAMILY OR MULTI-FAMILY DWELLING UNIT THAT IS NOT BEING USED AS A TARGETED OCCUPANT'S SOLE PLACE OF BUSINESS OR AS A PLACE OF PUBLIC MEETING.

(b) "TARGETED PICKETING" MEANS PICKETING, WITH OR WITHOUT SIGNS, THAT IS SPECIFICALLY DIRECTED TOWARD A RESIDENCE, OR ONE OR MORE OCCUPANTS OF THE RESIDENCE, AND THAT TAKES PLACE ON THAT PORTION OF A SIDEWALK OR STREET IN FRONT OF THE RESIDENCE, IN FRONT OF AN ADJOINING RESIDENCE, OR ON EITHER SIDE OF THE RESIDENCE.

(3) (a) IT SHALL BE UNLAWFUL FOR A PERSON TO ENGAGE IN TARGETED PICKETING EXCEPT WHEN THE PERSON IS ENGAGING IN PICKETING WHILE MARCHING, WITHOUT STOPPING IN FRONT OR ON EITHER SIDE OF A RESIDENCE, OVER A ROUTE THAT PROCEEDS A DISTANCE THAT EXTENDS BEYOND THREE ADJACENT STRUCTURES TO ONE SIDE OF THE TARGETED RESIDENCE ALONG THE ONE-WAY LENGTH AND THREE ADJACENT STRUCTURES TO THE OTHER SIDE OF THE TARGETED RESIDENCE ALONG THE ONE-WAY LENGTH OR THREE HUNDRED FEET TO ONE SIDE OF THE TARGETED RESIDENCE ALONG THE ONE-WAY LENGTH AND THREE HUNDRED FEET TO THE OTHER SIDE OF THE TARGETED RESIDENCE ALONG THE ONE-WAY LENGTH, WHICHEVER DISTANCE IS SHORTER.

(b) (I) IT SHALL BE UNLAWFUL FOR A PERSON WHILE ENGAGED IN TARGETED PICKETING TO HOLD, CARRY, OR OTHERWISE DISPLAY ON HIS OR HER PERSON A SIGN OR PLACARD WHILE HE OR SHE IS ON A STREET OR SIDEWALK IN A RESIDENTIAL AREA IF THE PERSON DOES NOT COMPLY WITH THE FOLLOWING RESTRICTIONS:

(A) ALL SIGNS OR PLACARDS SHALL BE NO GREATER IN SIZE THAN SIX SQUARE FEET;

(B) EACH PERSON MAY CARRY, HOLD, OR OTHERWISE DISPLAY NO MORE THAN ONE SIGN OR PLACARD.

(II) THE RESTRICTIONS SPECIFIED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL NOT APPLY TO A PERSON WHILE ENGAGED IN TARGETED PICKETING CARRYING A SIGN OR PLACARD TEMPORARILY WHILE TRANSPORTING THE SIGN OR PLACARD FROM THE PERSON'S RESIDENCE OR BUSINESS TO A VEHICLE.

(4) VEHICLES OR TRAILERS USED IN TARGETED PICKETING SHALL NOT PARK WITHIN THREE RESIDENCES OR THREE HUNDRED FEET OF A RESIDENCE THAT IS THE SUBJECT OF TARGETED PICKETING. THERE IS A PRESUMPTION THAT A VEHICLE OR TRAILER IS USED IN TARGETED PICKETING WHEN SIGNAGE IS AFFIXED TO THE VEHICLE CONTAINING CONTENT RELATED TO THE TARGETED PICKETING.

(5) IT SHALL NOT BE A VIOLATION OF SUBSECTION (3) OF THIS SECTION UNLESS A PERSON HAS PREVIOUSLY BEEN ORDERED BY A PEACE OFFICER OR OTHER LAW ENFORCEMENT OFFICIAL TO MOVE, DISPERSE, OR TAKE OTHER APPROPRIATE ACTION TO COMPLY WITH THIS SECTION AND THE PERSON HAS FAILED TO PROMPTLY COMPLY WITH THE WARNING. THE WARNING ISSUED BY THE PEACE OFFICER OR OTHER LAW ENFORCEMENT OFFICIAL SHALL INDICATE THE REQUIRED DISTANCES THE PERSON

ENGAGING IN PICKETING MUST MARCH OR OTHER CONDITIONS NECESSARY TO COMPLY WITH THIS SECTION. IN ORDER TO ENSURE THAT AN APPROPRIATE WARNING HAS BEEN GIVEN, THE LOCAL LAW ENFORCEMENT AGENCY SHALL MAINTAIN A WRITTEN RECORD INDICATING THE NAME OF EACH WARNED INDIVIDUAL, THE ADDRESS OR ADDRESSES OF THE TARGETED RESIDENCE OR RESIDENCES, AND THE DATE AND TIME OF THE WARNING.

(6) A PERSON WHO VIOLATES SUBSECTION (3) OF THIS SECTION COMMITS AN UNCLASSIFIED MISDEMEANOR. THE COURT MAY IMPOSE A FINE OF NO MORE THAN FIVE THOUSAND DOLLARS.

(7) THE PROVISIONS OF THIS SECTION SHALL NOT PROHIBIT A LOCAL GOVERNMENT FROM ADOPTING MORE RESTRICTIVE PROVISIONS CONCERNING TARGETED PICKETING OR CARRYING IN A RESIDENTIAL AREA MORE THAN ONE SIGN OF A CERTAIN SIZE.

SECTION 2. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: May 28, 2008