

## CHAPTER 305

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 09-1120**

BY REPRESENTATIVE(S) Stephens, Baumgardner, Frangas, Gardner B., Kerr J., Labuda, McFadyen, Nikkel, Roberts, Summers, Tipton, Todd, Vigil, Waller, Carroll T.;  
also SENATOR(S) Penry.

**AN ACT**

**CONCERNING CRIMINALIZING CERTAIN ACTS IN ORDER TO PROTECT THE SAFETY OF CERTAIN PUBLIC SERVANTS.**

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

**SECTION 1.** 18-3-204, Colorado Revised Statutes, is amended to read:

**18-3-204. Assault in the third degree.** (1) A person commits the crime of assault in the third degree if:

(a) The person knowingly or recklessly causes bodily injury to another person or with criminal negligence the person causes bodily injury to another person by means of a deadly weapon; OR

(b) THE PERSON, WITH INTENT TO INFECT, INJURE, HARM, HARASS, ANNOY, THREATEN, OR ALARM ANOTHER PERSON WHOM THE ACTOR KNOWS OR REASONABLY SHOULD KNOW TO BE A PEACE OFFICER, FIREFIGHTER, OR AN EMERGENCY MEDICAL TECHNICIAN, CAUSES SUCH OTHER PERSON TO COME INTO CONTACT WITH BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, VOMIT, OR ANY TOXIC, CAUSTIC, OR HAZARDOUS MATERIAL BY ANY MEANS, INCLUDING BUT NOT LIMITED TO THROWING, TOSSING, OR EXPELLING SUCH FLUID OR MATERIAL.

(2) (a) AN ADULT OR JUVENILE WHO HAS HAD A COURT FIND THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT HE OR SHE HAS COMMITTED AN OFFENSE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION OR IS CONVICTED OF AN OFFENSE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION OR ANY PERSON WHO IS DETERMINED TO HAVE PROVIDED BLOOD, SEMINAL FLUID, URINE, FECES, SALIVA, MUCUS, OR VOMIT TO A PERSON FOR WHOM PROBABLE CAUSE

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

HAS BEEN FOUND OR BEEN CONVICTED OF SUCH AN OFFENSE SHALL BE ORDERED BY THE COURT TO SUBMIT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES AND TO SUPPLY BLOOD, FECES, URINE, SALIVA, OR OTHER BODILY FLUID REQUIRED FOR THE TEST. THE RESULTS OF SUCH TEST SHALL BE REPORTED TO THE COURT OR THE COURT'S DESIGNEE, WHO SHALL THEN DISCLOSE THE RESULTS TO ANY VICTIM OF THE OFFENSE WHO REQUESTS SUCH DISCLOSURE. REVIEW AND DISCLOSURE OF MEDICAL TEST RESULTS BY THE COURT SHALL BE CLOSED AND CONFIDENTIAL, AND ANY TRANSACTION RECORDS RELATING THERETO SHALL ALSO BE CLOSED AND CONFIDENTIAL. IF A PERSON SUBJECT TO A MEDICAL TEST FOR COMMUNICABLE DISEASES PURSUANT TO THIS SUBSECTION (2) VOLUNTARILY SUBMITS TO A MEDICAL TEST FOR COMMUNICABLE DISEASES, THE FACT OF THE PERSON'S VOLUNTARY SUBMISSION SHALL BE ADMISSIBLE IN MITIGATION OF SENTENCE IF THE PERSON IS CONVICTED OF THE CHARGED OFFENSE.

(b) IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW, THE COURT MAY ORDER ANY PERSON WHO IS CONVICTED OF THE OFFENSE DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION TO MEET ALL OR ANY PORTION OF THE FINANCIAL OBLIGATIONS OF MEDICAL TESTS PERFORMED ON AND TREATMENT PRESCRIBED FOR THE VICTIM OR VICTIMS OF THE OFFENSE.

(3) Assault in the third degree is a class 1 misdemeanor and is an extraordinary risk crime that is subject to the modified sentencing range specified in section 18-1.3-501 (3).

**SECTION 2.** 18-1.3-501 (1.5), Colorado Revised Statutes, is amended to read:

**18-1.3-501. Misdemeanors classified - penalties.** (1.5) (a) If a defendant is convicted of assault in the third degree pursuant to section 18-3-204 and the victim is a peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter engaged in the performance of his or her duties, notwithstanding the provisions of subsection (1) of this section, the court shall sentence the defendant to a term of imprisonment greater than the maximum sentence but no more than twice the maximum sentence authorized for the same crime when the victim is not a peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter engaged in the performance of his or her duties. In addition to such term of imprisonment, the court may impose a fine on the defendant pursuant to subsection (1) of this section.

(b) As used in this section, "peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter engaged in the performance of his or her duties" means a peace officer as described in section 16-2.5-101, C.R.S., EMERGENCY MEDICAL TECHNICIAN AS DEFINED IN PART 1 OF ARTICLE 3.5 OF TITLE 25, C.R.S., or a firefighter as defined in section 18-3-201 (1), who is engaged or acting in, or who is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter, whether or not the peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter is within the territorial limits of his or her jurisdiction, if the peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter is in uniform or the person committing an assault upon or offense against or otherwise acting toward such peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter knows or reasonably should know that the victim is a peace officer, EMERGENCY MEDICAL TECHNICIAN, or firefighter or if the peace officer or firefighter

is intentionally assaulted in retaliation for the performance of his or her official duties.

**SECTION 3.** 18-8-116 (1), Colorado Revised Statutes, is amended to read:

**18-8-116. Disarming a peace officer.** (1) A person commits disarming a peace officer if he OR SHE knowingly, without justification and without consent, removes the firearm OR SELF-DEFENSE ELECTRONIC CONTROL DEVICE, DIRECT-CONTACT STUN DEVICE, OR OTHER SIMILAR DEVICE of a peace officer who is acting under color of his OR HER official authority.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 2009, 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: May 21, 2009