

CHAPTER 341

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 09-1132

BY REPRESENTATIVE(S) Murray and Priola, Liston, Benefield, Labuda, Waller, Acree, Bradford, Gerou, Green, Summers, Balmer, Baumgardner, Gardner B., Gardner C., Kefalas, Kerr J., King S., Lambert, Looper, Marostica, May, McKinley, McNulty, Nikkel, Roberts, Schafer S., Stephens, Swalm, Tipton, Todd, Vaad, Vigil, Kerr A., Massey;
 also SENATOR(S) Heath, Scheffel, Bacon, Boyd, Brophy, Gibbs, Groff, Harvey, Hodge, Kester, King K., Kopp, Lundberg, Mitchell, Morse, Newell, Penry, Renfroe, Schultheis, Schwartz, Shaffer B., Tapia, Tochtrop, White, Williams.

AN ACT**CONCERNING THE USE OF MESSAGING SYSTEMS TO COMMIT UNLAWFUL ACTIVITY.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 13-21-1002 (1)(a), Colorado Revised Statutes, is amended to read:

13-21-1002. Computer dissemination of indecent material to a child - prohibition. (1) A person commits computer dissemination of indecent material to a child when:

(a) Knowing the character and content of the communication which, in whole or in part, depicts actual or simulated nudity, or sexual conduct, as defined in section 19-1-103 (97), C.R.S., the person willfully uses a computer, computer network, TELEPHONE NETWORK, DATA NETWORK, or computer system allowing the input, output, examination, or transfer of computer data or computer programs from one computer to another OR A TEXT-MESSAGING OR INSTANT-MESSAGING SYSTEM to initiate or engage in such communication with a person he or she believes to be a child; and

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

18-3-306. Internet luring of a child. (1) An actor commits internet luring of a child if the actor knowingly communicates ~~a statement~~ over a computer or computer network, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE to a person who the actor knows or believes ~~is~~ TO BE under fifteen years of age ~~describing~~ AND, IN THAT COMMUNICATION OR IN ANY

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

SUBSEQUENT COMMUNICATION BY COMPUTER, COMPUTER NETWORK, TELEPHONE NETWORK, DATA NETWORK, TEXT MESSAGE, OR INSTANT MESSAGE, DESCRIBES explicit sexual conduct as defined in section 18-6-403 (2) (e), and, in connection with ~~the communication~~ THAT DESCRIPTION, makes a statement persuading or inviting the person to meet the actor for any purpose, and the actor is more than four years older than the person or than the age the actor believes the person to be.

SECTION 3. 18-3-405.4 (1), Colorado Revised Statutes, is amended to read:

18-3-405.4. Internet sexual exploitation of a child. (1) ~~A person~~ AN ACTOR commits internet sexual exploitation of a child if ~~a person, who is at least four years older than a child who is under fifteen years of age,~~ THE ACTOR knowingly importunes, invites, or entices ~~the child~~ through communication via a computer network or system, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE, A PERSON WHOM THE ACTOR KNOWS OR BELIEVES TO BE UNDER FIFTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER THAN THE ACTOR, to:

(a) Expose or touch the ~~child's~~ PERSON'S own or another person's intimate parts while communicating with the ~~person~~ ACTOR via a computer network or system, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE; or

(b) Observe the ~~person's~~ ACTOR'S intimate parts ~~while communicating with the person~~ via a computer network or system, TELEPHONE NETWORK, OR DATA NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE.

SECTION 4. 18-9-111 (1) (e), Colorado Revised Statutes, is amended to read:

18-9-111. Harassment - stalking. (1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

(e) Initiates communication with a person, anonymously or otherwise, by telephone, TELEPHONE NETWORK, DATA NETWORK, TEXT MESSAGE, INSTANT MESSAGE, computer, computer network, or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system that is obscene; or

SECTION 5. Exception to the requirements of section 2-2-703, Colorado Revised Statutes. The general assembly hereby finds that the amendments to sections 13-21-1002, 18-3-306, 18-3-405.4 (1) and 18-9-111 (1) (e), Colorado Revised Statutes, enacted in sections 1 through 4 of this act will result in the minor fiscal impact of two additional offenders being convicted and sentenced to the department of corrections during the five years following passage of this act. Because of the relative insignificance of this degree of fiscal impact, these amendments are an exception to the five-year appropriation requirements specified in section 2-2-703, Colorado Revised Statutes.

SECTION 6. Effective date - applicability. This act shall take effect July 1, 2009, and shall apply to offenses committed on or after said date.

SECTION 7. 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 1, 2009