

CHAPTER 262

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 10-1277

BY REPRESENTATIVE(S) DelGrosso, Waller, Apuan, Bradford, Gerou, Hulinghorst, Kagan, King S., Nikkel, Primavera, Schafer S., Stephens, Vigil, Fischer, McFadyen, Merrifield;
also SENATOR(S) Steadman, Boyd, Newell, Williams.

AN ACT

CONCERNING AN EXTENSION OF THE PROHIBITION AGAINST SEXUAL CONDUCT IN CORRECTIONAL INSTITUTIONS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 18-7-701, Colorado Revised Statutes, is amended to read:

18-7-701. Sexual conduct in a correctional institution. (1) An employee, contract employee, or volunteer of a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or an individual who performs work or volunteer functions in a ~~criminal justice facility or for the department of corrections~~ CORRECTIONAL INSTITUTION who engages in sexual conduct with a person who is in lawful custody in a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION commits the offense of sexual conduct in a ~~penal institution~~ CORRECTIONAL INSTITUTION.

(2) For purposes of this section:

(a) ~~"Criminal justice facility"~~ "CORRECTIONAL INSTITUTION" means a correctional facility, as defined in section 17-1-102 (1.7), C.R.S., A LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7), C.R.S., operated by or under contract with the department of corrections, ~~or~~ a jail, A FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES IN WHICH JUVENILES ARE OR MAY BE LAWFULLY HELD FOR DETENTION OR COMMITMENT FOR THE COMMISSION OF A CRIME, OR A FACILITY OF A COMMUNITY CORRECTIONS PROGRAM AS DEFINED IN SECTION 17-27-102 (3), C.R.S.

(b) "Sexual conduct" means sexual contact as defined in section 18-3-401 (4), sexual intrusion as defined in section 18-3-401 (5), or sexual penetration as defined

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

in section 18-3-401 (6). "Sexual conduct" does not include acts of an employee of a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or a person who has custody of another person that are performed to carry out the necessary duties of the employee or the person with custody.

(3) Sexual conduct in a ~~penal institution~~ CORRECTIONAL INSTITUTION is a class 5 felony if the sexual conduct includes sexual intrusion or sexual penetration and is committed by an employee or contract employee of a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or by an employee, contract employee, or individual who performs work functions in a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or for the department of corrections, THE DEPARTMENT OF HUMAN SERVICES, OR A COMMUNITY CORRECTIONS PROGRAM.

(4) Sexual conduct in a ~~penal institution~~ CORRECTIONAL INSTITUTION is a class 6 felony if:

(a) The sexual conduct consists solely of sexual contact and is committed by an employee or contract employee of a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or by an employee, contract employee, or individual who performs work functions in a ~~criminal justice facility~~ CORRECTIONAL INSTITUTION or for the department of corrections, THE DEPARTMENT OF HUMAN SERVICES, OR A COMMUNITY CORRECTIONS PROGRAM;

(b) The sexual conduct includes sexual intrusion or sexual penetration and is committed by a volunteer.

(5) Sexual conduct in a ~~penal institution~~ CORRECTIONAL INSTITUTION is a class 1 misdemeanor if the sexual conduct consists solely of sexual contact and is committed by a volunteer.

SECTION 2. 16-22-102 (9) (u), Colorado Revised Statutes, is amended to read:

16-22-102. Definitions. As used in this article, unless the context otherwise requires:

(9) "Unlawful sexual behavior" means any of the following offenses or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

(u) Engaging in sexual conduct in a ~~penal~~ CORRECTIONAL institution, in violation of section 18-7-701, C.R.S.;

SECTION 3. 16-22-112 (2) (b) (II) (F), Colorado Revised Statutes, is amended to read:

16-22-112. Release of information - law enforcement agencies. (2) (b) A local law enforcement agency may post on its web site sex offender registration information of a person from its registration list only if the person is:

(II) An adult convicted of a second or subsequent offense of any of the following misdemeanors:

(F) Sexual conduct in a ~~penal~~ CORRECTIONAL institution as described in section 18-7-701, C.R.S.;

SECTION 4. Article 18 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-18-106. Appropriation to comply with section 2-2-703 - HB 10-1277 - repeal. (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 HOUSE BILL 10-1277, ENACTED IN 2010:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, 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-THREE THOUSAND EIGHT HUNDRED SIXTY-ONE DOLLARS (\$83,861).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-EIGHT THOUSAND FOURTEEN DOLLARS (\$28,014).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FOUR THOUSAND FOUR HUNDRED EIGHTY-TWO DOLLARS (\$4,482).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 5. 24-75-302 (2) (w), Colorado Revised Statutes, is 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, 2012, 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 that shall accrue pursuant to this subsection (2) shall be as follows:

(w) On July 1, 2010, five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to S.B. 06-207, enacted at the second regular session of the sixty-fifth general assembly; plus forty-three thousand five hundred ninety-seven dollars pursuant to H.B. 06-1145, enacted at the second regular session of the sixty-fifth general assembly; plus five hundred twenty-three thousand one hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the second regular session of the sixty-fifth general assembly; plus sixty-nine thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004, enacted at the first extraordinary session of the

sixty-fifth general assembly; plus seven hundred fifty thousand nine hundred ninety dollars pursuant to S.B. 07-096, enacted at the first regular session of the sixty-sixth general assembly; plus one hundred twelve thousand six hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular session of the sixty-sixth general assembly; plus one hundred thirty-seven thousand six hundred eighty-two dollars pursuant to S.B. 08-239, enacted at the second regular session of the sixty-sixth general assembly; PLUS EIGHTY-THREE THOUSAND EIGHT HUNDRED SIXTY-ONE DOLLARS PURSUANT TO H.B. 10-1277, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY;

SECTION 6. Appropriation - legislative intent. (1) It is the intent of the general assembly that the general fund appropriation for the implementation of this act shall be derived from savings generated from the implementation of the provisions of House Bill 10-1338, as enacted during the second regular session of the sixty-seventh general assembly.

SECTION 7. Effective date. (1) This act shall take effect July 1, 2010.

(2) Notwithstanding the provisions of subsection (1) of this section, this act shall only take effect if:

(a) The final fiscal estimate for House Bill 10-1338 determined from the appropriations enacted in said bill shows a net reduction in the amount of general fund revenues appropriated for state fiscal year 2010-11 that is equal to or greater than the amount of the general fund transfer made for the implementation of this act for state fiscal year 2010-11, as reflected in section 4 of this act; and

(b) House Bill 10-1338 is enacted at the second regular session of the sixty-seventh general assembly and becomes law; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 1, 2010, that the requirement set forth in paragraph (a) of this subsection (2) has been met.

SECTION 8. 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 25, 2010