

CHAPTER 359

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 10-1334

BY REPRESENTATIVE(S) King S., Court, Gerou, Kagan, Peniston, Schafer S., Vigil, Gardner B., Labuda, Lambert, McCann;
also SENATOR(S) Steadman.

AN ACT**CONCERNING CHANGES TO INDECENCY CRIMES.**

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

SECTION 1. 18-7-301, Colorado Revised Statutes, is amended to read:

18-7-301. Public indecency. (1) Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency:

(a) An act of sexual intercourse; or

(b) ~~An act of deviate sexual intercourse; or~~

(c) A lewd exposure of AN INTIMATE PART AS DEFINED BY SECTION 18-3-401 (2) OF the body, NOT INCLUDING THE GENITALS, done with intent to arouse or to satisfy the sexual desire of any person; or

(d) A lewd fondling or caress of the body of another person; or

(e) ~~An act of masturbation~~ A KNOWING EXPOSURE OF THE PERSON'S GENITALS TO THE VIEW OF A PERSON UNDER CIRCUMSTANCES IN WHICH SUCH CONDUCT IS LIKELY TO CAUSE AFFRONT OR ALARM TO THE OTHER PERSON.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), public indecency is a class 1 petty offense.

(b) PUBLIC INDECENCY AS DESCRIBED IN PARAGRAPH (e) OF SUBSECTION (1) OF

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

THIS SECTION IS A CLASS 1 MISDEMEANOR IF THE VIOLATION IS COMMITTED SUBSEQUENT TO A CONVICTION FOR A VIOLATION OF PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION OR FOR A VIOLATION OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE UNITED STATES, OR FOR A VIOLATION OF A COMPARABLE MUNICIPAL ORDINANCE.

~~(3) For purposes of this section, "masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own genitals or pubic area for the purpose of sexual gratification or arousal of the person, regardless of whether the genitals or pubic area is exposed or covered.~~

SECTION 2. 18-7-302 (1), Colorado Revised Statutes, is amended, and the said 18-7-302 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-7-302. Indecent exposure. (1) A person commits indecent exposure:

(a) If he OR SHE knowingly exposes his OR HER genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person WITH THE INTENT TO AROUSE OR TO SATISFY THE SEXUAL DESIRE OF ANY PERSON;

(b) IF HE OR SHE KNOWINGLY PERFORMS AN ACT OF MASTURBATION IN A MANNER WHICH EXPOSES THE ACT TO THE VIEW OF ANY PERSON UNDER CIRCUMSTANCES IN WHICH SUCH CONDUCT IS LIKELY TO CAUSE AFFRONT OR ALARM TO THE OTHER PERSON.

(5) FOR PURPOSES OF THIS SECTION, "MASTURBATION" MEANS THE REAL OR SIMULATED TOUCHING, RUBBING, OR OTHERWISE STIMULATING OF A PERSON'S OWN GENITALS OR PUBIC AREA FOR THE PURPOSE OF SEXUAL GRATIFICATION OR AROUSAL OF THE PERSON, REGARDLESS OF WHETHER THE GENITALS OR PUBIC AREA IS EXPOSED OR COVERED.

SECTION 3. 16-22-102 (9) (x) and (9) (y), Colorado Revised Statutes, are amended, and the said 16-22-102 (9) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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:

(x) Class 4 felony internet luring of a child, in violation of section 18-3-306 (3), C.R.S.; or

(y) Internet sexual exploitation of a child, in violation of section 18-3-405.4, C.R.S.; OR

(z) PUBLIC INDECENCY, COMMITTED IN VIOLATION OF SECTION 18-7-301 (2) (b), C.R.S., IF A SECOND OFFENSE IS COMMITTED WITHIN FIVE YEARS OF THE PREVIOUS

OFFENSE OR A THIRD OR SUBSEQUENT OFFENSE IS COMMITTED.

SECTION 4. 16-11.7-102 (3) (v) and (3) (w), Colorado Revised Statutes, are amended, and the said 16-11.7-102 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

16-11.7-102. Definitions. As used in this article, unless the context otherwise requires:

(3) "Sex offense" means any felony or misdemeanor offense described in this subsection (3) as follows:

(v) Class 4 felony internet luring of a child, in violation of section 18-3-306 (3), C.R.S.; ~~or~~

(w) Internet sexual exploitation of a child in violation of section 18-3-405.4, C.R.S.; OR

(x) PUBLIC INDECENCY, COMMITTED IN VIOLATION OF SECTION 18-7-301 (2) (b), C.R.S., IF A SECOND OFFENSE IS COMMITTED WITHIN FIVE YEARS OF THE PREVIOUS OFFENSE OR A THIRD OR SUBSEQUENT OFFENSE IS COMMITTED.

SECTION 5. Act subject to petition - effective date. 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 7, 2010