

CHAPTER 336

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 14-1214

BY REPRESENTATIVE(S) Gerou, Court, Exum, Garcia, Ginal, Labuda, Murray, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Kagan, Landgraf, McLachlan, Mitsch Bush, Stephens, Williams;
also SENATOR(S) Balmer, Crowder, Herpin, Kefalas, King, Rivera, Roberts, Zenzinger.

AN ACT

CONCERNING AN INCREASE IN THE PENALTIES FOR CERTAIN OFFENSES COMMITTED AGAINST AN EMERGENCY MEDICAL SERVICE PROVIDER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 18-1.3-401, **amend** (1) (b) (IV) as follows:

18-1.3-401. Felonies classified - presumptive penalties. (1) (b) (IV) If a person is convicted of assault in the first degree pursuant to section 18-3-202 or assault in the second degree pursuant to section 18-3-203 and the victim is a peace officer, ~~or firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER~~ engaged in the performance of his or her duties, as defined in section 18-1.3-501 (1.5) (b), notwithstanding the provisions of subparagraph (III) of paragraph (a) of this subsection (1) and subparagraph (II) of this paragraph (b), the court shall sentence the person to the department of corrections. In addition to a term of imprisonment, the court may impose a fine on ~~such~~ THE person pursuant to subparagraph (III) of paragraph (a) of this subsection (1).

SECTION 2. In Colorado Revised Statutes, 18-1.3-1201, **amend** (5) introductory portion and (5) (c) introductory portion; and **add** (5) (c) (II.5) as follows:

18-1.3-1201. Imposition of sentence in class 1 felonies - appellate review. (5) For purposes of this section, THE FOLLOWING ARE aggravating factors: ~~shall be the following factors:~~

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

(c) The defendant intentionally killed any of the following persons while ~~such~~ THE person was engaged in the course of the performance of ~~such~~ THE person's official duties, and the defendant knew or reasonably should have known that ~~such~~ THE victim was ~~such~~ a person engaged in the performance of ~~such~~ THE person's official duties, or the victim was intentionally killed in retaliation for the performance of the victim's official duties:

(II.5) AN EMERGENCY MEDICAL SERVICE PROVIDER, AS DEFINED IN SECTION 18-3-201 (1); OR

SECTION 3. In Colorado Revised Statutes, **amend** 18-3-107 as follows:

18-3-107. First degree murder of a peace officer, firefighter, or emergency medical service provider - legislative declaration. (1) A person who commits murder in the first degree, as defined in section 18-3-102, and the victim is a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER, engaged in the performance of his or her duties, commits the felony crime of first degree murder of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER.

(2) As used in this section, "peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties" means a peace officer as described in section 16-2.5-101, C.R.S., ~~or~~ a firefighter, as defined in section 18-3-201 (~~+~~) (1.5), OR AN EMERGENCY MEDICAL SERVICE PROVIDER, 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, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER, whether or not the peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER is within the territorial limits of his or her jurisdiction, if the peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER is in uniform or the person committing an assault upon or offense against or otherwise acting toward ~~such~~ THE peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER knows or reasonably should know that the victim is a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER.

(3) A person convicted of first degree murder of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER shall be punished by life imprisonment without the possibility of parole for the rest of his or her natural life, unless a proceeding held to determine sentence according to the procedure set forth in section 18-1.3-1201, 18-1.3-1302, or 18-1.4-102 results in a verdict that requires imposition of the death penalty, in which event ~~such~~ THE person shall be sentenced to death. Nothing in this subsection (3) ~~shall be~~ IS construed as limiting the power of the governor to grant reprieves, commutations, and pardons pursuant to section 7 of article IV of the Colorado constitution.

(4) In the event the death penalty as provided for in this section is held to be unconstitutional by the Colorado supreme court or the United States supreme court, a person convicted of first degree murder of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER under subsection (1) of this section shall be punished by life imprisonment without the possibility of parole. In such circumstance, the court which previously sentenced a person to death shall cause

~~such~~ THE person to be brought before the court, and the court shall sentence ~~such~~ THE person to life imprisonment without the possibility of parole.

(5) The general assembly recognizes that protection of peace officers, ~~and~~ firefighters, AND EMERGENCY MEDICAL SERVICE PROVIDERS from crime is a major concern of our state because society depends on peace officers, ~~and~~ firefighters, AND EMERGENCY MEDICAL SERVICE PROVIDERS for protection against crime and other dangers and because peace officers, ~~and~~ firefighters, AND EMERGENCY MEDICAL SERVICE PROVIDERS are disproportionately damaged by crime because their duty to protect society often places them in dangerous circumstances. Society as a whole benefits from affording special protection to peace officers, ~~and~~ firefighters, AND EMERGENCY MEDICAL SERVICE PROVIDERS because ~~such~~ THE protection deters crimes against them and allows them to better serve and protect our state. The general assembly therefore finds that the penalties for first degree murder of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER should be more severe than the penalty for first degree murder of other members of society.

SECTION 4. In Colorado Revised Statutes, **amend** 18-3-201 as follows:

18-3-201. Definitions. As used in sections 18-3-201 to 18-3-203, unless the context otherwise requires:

(1) "EMERGENCY MEDICAL SERVICE PROVIDER" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-3.5-103 (8), C.R.S. THE TERM REFERS TO BOTH PAID AND VOLUNTEER EMERGENCY MEDICAL SERVICE PROVIDERS.

~~(1)~~ (1.5) "Firefighter" means an officer or member of a fire department or fire protection or fire-fighting agency of the state, or any municipal or quasi-municipal corporation in this state, whether that person is a volunteer or receives compensation for services rendered as such firefighter.

(2) "Peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties" means a peace officer, as described in section 16-2.5-101, C.R.S., ~~or~~ A firefighter, OR AN EMERGENCY MEDICAL SERVICE PROVIDER, 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, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER, whether or not the peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER is within the territorial limits of his or her jurisdiction, if the peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER is in uniform or the person committing an assault upon or offense against or otherwise acting toward ~~such~~ THE peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER knows or reasonably should know that the victim is a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER. For the purposes of this subsection (2) and this part 2, the term "peace officer" ~~shall include~~ INCLUDES county enforcement personnel designated pursuant to section 29-7-101 (3), C.R.S.

SECTION 5. In Colorado Revised Statutes, 18-3-202, **amend** (1) (e) as follows:

18-3-202. Assault in the first degree. (1) A person commits the crime of assault in the first degree if:

(e) With intent to cause serious bodily injury upon the person of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER, he or she threatens with a deadly weapon a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties, and the offender knows or reasonably should know that the victim is a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER acting in the performance of his or her duties; or

SECTION 6. In Colorado Revised Statutes, 18-3-203, **amend** (1) (c) and (1) (f) as follows:

18-3-203. Assault in the second degree. (1) A person commits the crime of assault in the second degree if:

(c) With intent to prevent one whom he or she knows, or should know, to be a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER from performing a lawful duty, he or she intentionally causes bodily injury to any person; or

(f) While lawfully confined or in custody, he or she knowingly and violently applies physical force against the person of a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or, while lawfully confined or in custody as a result of being charged with or convicted of a crime or as a result of being charged as a delinquent child or adjudicated as a delinquent child, he or she knowingly and violently applies physical force against a person engaged in the performance of his or her duties while employed by or under contract with a detention facility, as defined in section 18-8-203 (3), or while employed by the division in the department of human services responsible for youth services and who is a youth services counselor or is in the youth services worker classification series, and the person committing the offense knows or reasonably should know that the victim is a peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties, or a judge of a court of competent jurisdiction, or an officer of said court, or a person engaged in the performance of his or her duties while employed by or under contract with a detention facility or while employed by the division in the department of human services responsible for youth services. A sentence imposed pursuant to this paragraph (f) shall be served in the department of corrections and shall run consecutively with any sentences being served by the offender; except that, if the offense is committed against a person employed by the division in the department of human services responsible for youth services, the court may grant probation or a suspended sentence in whole or in part, and ~~such~~ THE sentence may run concurrently or consecutively with any sentences being served. A person who participates in a work release program, a furlough, or any other similar authorized supervised or unsupervised absence from a detention facility, as defined in section 18-8-203 (3), and who is required to report back to the detention facility at a specified time ~~shall be~~ is deemed to be in custody.

SECTION 7. In Colorado Revised Statutes, **add** 16-11.3-103.5 as follows:

16-11.3-103.5. Study of enhanced penalties for offenses against emergency service providers - repeal. (1) AS SOON AS PRACTICABLE, THE COMMISSION SHALL REVIEW SECTION 18-1.3-401 (1) (b) (IV), C.R.S., AND THE EFFICACY OF IMPLEMENTING ENHANCED SENTENCING FOR FIRST-DEGREE ASSAULT, SECOND-DEGREE ASSAULT, AND FIRST-DEGREE MURDER OF AN EMERGENCY MEDICAL SERVICE PROVIDER, AS DEFINED IN SECTION 25-3.5-103 (8), C.R.S., TO DETERMINE WHETHER:

(a) COLORADO'S SENTENCING LAWS, INCLUDING ARTICLE 1.3 OF TITLE 18, C.R.S., PROVIDE EQUITY AND PARITY OF SENTENCING WITH RESPECT TO ENHANCED SENTENCING BASED ON THE VICTIM'S OCCUPATION; AND

(b) THERE IS EVIDENCE-BASED SUPPORT FOR ENHANCED SENTENCING BASED ON THE VICTIM'S OCCUPATION.

(2) ON OR BEFORE MARCH 1, 2015, THE COMMISSION SHALL REPORT ITS FINDINGS AND ANY RECOMMENDATIONS BASED ON ITS FINDINGS TO THE JUDICIARY COMMITTEES IN THE HOUSE OF REPRESENTATIVES AND THE SENATE.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

SECTION 8. In Colorado Revised Statutes, 13-21-203, **amend** (6) as follows:

13-21-203. Limitation on damages. (6) The provisions of this section shall not apply to a peace officer, as described in section 16-2.5-101, C.R.S., or to any firefighter, as defined in section 18-3-201 (†) (1.5), C.R.S., for claims arising out of injuries sustained from an act or omission of ~~such~~ THE peace officer or firefighter acting in the performance of his or her duties and within the scope of his or her employment.

SECTION 9. In Colorado Revised Statutes, 18-1.3-501, **amend** (1.5) (b) as follows:

18-1.3-501. Misdemeanors classified - drug misdemeanors and drug petty offenses classified - penalties - definitions. (1.5) (b) As used in this section, "peace officer, emergency medical service provider, emergency medical care provider, 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 service provider as defined in part 1 of article 3.5 of title 25, C.R.S., emergency medical care provider as defined by section 18-3-204 (4), or a firefighter as defined in section 18-3-201 (†) (1.5), who is engaged or acting in or who is present to engage or act in the performance of a duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, emergency medical service provider, emergency medical care provider, or firefighter, whether or not the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is within the territorial limits of his or her jurisdiction, if the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is in uniform or the person committing an assault upon or offense against or otherwise acting toward the peace officer, emergency medical

service provider, emergency medical care provider, or firefighter knows or reasonably should know that the victim is a peace officer, emergency medical service provider, emergency medical care provider, or firefighter or if the peace officer, emergency medical service provider, emergency medical care provider, or firefighter is intentionally assaulted in retaliation for the performance of his or her official duties.

SECTION 10. In Colorado Revised Statutes, 18-6-401, **amend** (9) as follows:

18-6-401. Child abuse. (9) If a parent is charged with permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, pursuant to paragraph (a) of subsection (1) of this section, and the child was seventy-two hours old or younger at the time of the alleged offense, it ~~shall be~~ is an affirmative defense to ~~such~~ THE charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in section 18-3-201 (†) (1.5), or to a hospital staff member who engages in the admission, care, or treatment of patients, when ~~such~~ THE firefighter is at a fire station or ~~such~~ THE hospital staff member is at a hospital.

SECTION 11. In Colorado Revised Statutes, 19-3-304, **amend** (2) (v) as follows:

19-3-304. Persons required to report child abuse or neglect. (2) Persons required to report such abuse or neglect or circumstances or conditions include any:

(v) Firefighter as defined in section 18-3-201 (†) (1.5), C.R.S.;

SECTION 12. In Colorado Revised Statutes, 19-3-304.5, **amend** (1) introductory portion as follows:

19-3-304.5. Emergency possession of certain abandoned children. (1) If a parent voluntarily delivers a child to a firefighter, as defined in section 18-3-201 (†) (1.5), C.R.S., or a hospital staff member who engages in the admission, care, or treatment of patients, when ~~such~~ THE firefighter is at a fire station or ~~such~~ THE hospital staff member is at a hospital, the firefighter or hospital staff member shall, without a court order, take temporary physical custody of the child if:

SECTION 13. In Colorado Revised Statutes, **amend** 30-15-105 as follows:

30-15-105. Animal control officers - peace officer designation. Personnel engaged in animal control, however titled or administratively assigned, may issue citations or summonses and complaints enforcing the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance without regard to the certification requirements of part 3 of article 31 of title 24, C.R.S. Personnel so engaged shall be included within the definition of "peace officer, ~~or~~ firefighter, OR EMERGENCY MEDICAL SERVICE PROVIDER engaged in the performance of his or her duties" in section 18-3-201 (2), C.R.S. Nothing in this part 1 is intended to vest authority in any person so engaged to enforce any resolution, ordinance, or statute other than the county dog control resolution or any other county resolution concerning the control of pet animals or municipal ordinance.

SECTION 14. In Colorado Revised Statutes, **add** 17-18-115 as follows:

17-18-115. Appropriation to comply with section 2-2-703 - HB 14-1214 - 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 14-1214, ENACTED IN 2014:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, 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 THOUSAND FIFTY-TWO DOLLARS (\$20,052).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, 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 FIFTY-NINE THOUSAND TWO HUNDRED NINETY-FIVE DOLLARS (\$59,295).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 15. Act subject to petition - effective date - applicability. (1) This act takes 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 6, 2014, if adjournment sine die is on May 7, 2014); 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 will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: June 5, 2014