

## CHAPTER 211

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**CRIMINAL LAW AND PROCEDURE**

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## HOUSE BILL 15-1303

BY REPRESENTATIVE(S) Melton, Fields, Kraft-Tharp, Ryden, Salazar, Tyler;  
also SENATOR(S) Lundberg, Merrifield, Neville T., Steadman.

## AN ACT

CONCERNING ELIMINATING THE APPLICATION OF CERTAIN SENTENCING PROVISIONS TO CERTAIN  
PERSONS WHO ARE CONVICTED OF ASSAULT IN THE SECOND DEGREE.

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

**SECTION 1.** In Colorado Revised Statutes, 18-3-203, **amend** (2) (c); and **add** (1) (c.5) as follows:

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

(c.5) WITH INTENT TO PREVENT ONE WHOM HE OR SHE KNOWS, OR SHOULD KNOW, TO BE A PEACE OFFICER, FIREFIGHTER, OR EMERGENCY MEDICAL SERVICE PROVIDER FROM PERFORMING A LAWFUL DUTY, HE OR SHE INTENTIONALLY CAUSES SERIOUS BODILY INJURY TO ANY PERSON; OR

(2) (c) (I) If a defendant is convicted of assault in the second degree pursuant to paragraph (b), ~~(c)~~, (c.5), (d), or (g) of subsection (1) of this section or paragraph (b.5) of this subsection (2), except with respect to sexual assault or sexual assault in the first degree as it existed prior to July 1, 2000, the court shall sentence the defendant in accordance with the provisions of section 18-1.3-406. A defendant convicted of assault in the second degree pursuant to paragraph (b.5) of this subsection (2) with respect to sexual assault or sexual assault in the first degree as it existed prior to July 1, 2000, shall be sentenced in accordance with section 18-1.3-401 (8) (e) or (8) (e.5).

(II) IF A DEFENDANT IS CONVICTED OF ASSAULT IN THE SECOND DEGREE PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION, THE COURT SHALL SENTENCE THE OFFENDER IN ACCORDANCE WITH SECTION 18-1.3-406; EXCEPT

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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.*

THAT, NOTWITHSTANDING THE PROVISIONS OF SECTION 18-1.3-406, THE COURT IS NOT REQUIRED TO SENTENCE THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS FOR A MANDATORY TERM OF INCARCERATION.

**SECTION 2.** 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 (1) (c.5), and the victim is a peace officer, 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 the person pursuant to subparagraph (III) of paragraph (a) of this subsection (1).

**SECTION 3. Act subject to petition - effective date - applicability.** (1) This act takes effect September 1, 2015; 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 the ninety-day period after final adjournment of the general assembly, 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 2016 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: May 20, 2015