



COLORADO CRIMINAL DEFENSE BAR

Please Consider Additional Amendment Language to SB19-172

From the Colorado Criminal Defense Bar's perspective, there are two points of confusion in the current draft which should be addressed via amendment.

Problem #1:

Section (6) (a) through (b) states:

(6) (a) Any person who knowingly commits caretaker neglect against an at-risk person or knowingly acts in a manner likely to be injurious to the physical or mental welfare of an at-risk person commits a class 1 misdemeanor;

(b) A caretaker who knowingly commits caretaker neglect and exhibits a reckless disregard for the safety and welfare of the at-risk person, commits a class 6 felony.

We see no way to reasonably differentiate the conduct of the M1 (acting in a manner likely to be injurious to the physical or mental welfare of an at-risk person) from the conduct of the F6 (exhibiting a reckless disregard for the safety and welfare of the at-risk person). We see this as an equal protection problem because the two offenses are essentially the same.

Solution: Amend (6) (b) to a class 1 misdemeanor

Problem #2:

Regarding false imprisonment of an at-risk person section, we have two very different offenses under section (9)(a)(II) of amendment L.001 to SB19-172. The charge is an F6 regardless of whether the confinement/detention is accomplished by "unreasonably restricts that person's freedom of movement by tying, caging, chaining, or otherwise using similar physical restraints"

OR simply by

"threatening or intimidating the at-risk person."

Solution: CCDB has concerns creating a felony for verbally threatening someone with no physical action, especially when that conduct is considered the exact same offense classification/penalty for tying, caging, chaining, or otherwise using similar physical restraints. We understand the disability group thinks the threats/intimidation piece is very important, but from a criminal law perspective, it simply does not rise to the level of a felony, nor should it.