

Compare

Page 2 line 26 through page 3 line 5 (creating an M1)

(c) With the intent to harass, annoy, threaten, or alarm another person whom the person knows or reasonably should know to be a transit worker, the person causes the transit worker to come into contact with blood, seminal fluid, urine, feces, saliva, mucus, vomit, or toxic, caustic, or hazardous material by any means, including throwing, tossing, or expelling the fluid or material.

With

(an existing M1) C.R.S. §18-9-111(1) A person commits harassment if, with the intent to harass, annoy, or alarm another person he or she:

(a) Strikes shoves, kicks, or otherwise touches a person or *subjects him to physical contact*;

In light of the holding in People v. Peay, 5 P.3d 398, 400–01 (Colo. App. 2000)

“Defendant next contends that the evidence was insufficient to support his conviction for harassment. We disagree.

The applicable statute, § 18–9–111(1)(a), C.R.S.1999, provides that:

(1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

(a) Strikes, shoves, kicks, or otherwise touches a person or *subjects him to physical contact*.

(emphasis added)

As noted, while being escorted from the residence by the police, defendant spat in the tenant's face. Relying on dictionary definitions of “contact” that refer to the touching of some part of the body, defendant argues that his spitting in the tenant's face did not constitute a physical contact within the meaning of the statute. We are not persuaded.

We reject defendant's narrow construction of “physical contact.” If we were to adopt defendant's interpretation, we would have to conclude that it would not constitute harassment if one were to strike another with a weapon or an object rather than with one's hands or some other part of the body. We see no basis for adopting such an interpretation.

Accordingly, we conclude that defendant's spitting on the tenant constituted “physical contact” within the meaning of the statute.

Courts of other jurisdictions have reached the same conclusion in interpreting the meaning of the term “physical contact.” See State v. Keller, 40 Or.App. 143, 594 P.2d 1250 (1979) (spitting on another can constitute “offensive physical contact”); People v. Walker, 291 Ill.App.3d 597, 225 Ill.Dec. 633, 683 N.E.2d 1296 (1997) (throwing urine on another person amounts to “physical contact of an insulting or provoking nature”).”

Compare

Page 3 lines 9 – 12 (creating an M1)

(d) With the intent to prevent one whom the person knows, or reasonably should know, to be a transit worker from performing a lawful duty, the person *recklessly causes bodily injury to the transit worker*.

With

(an existing M1) C.R.S. §18-3-204(1)(a) The person knowingly or *recklessly causes bodily injury to another person* or with criminal negligence the person causes bodily injury to another person by means of a deadly weapon.

Noting:

C.R.S. §32-9-160(1) Any person, who wrongfully damages, injures, or destroys, or in any manner impairs the usefulness of any facility, property, structure, improvement, equipment, or other property of the district acquired under the provisions of this article 9, or who wrongfully interferes with any officer, agent, or employee of the district in the proper discharge of the officer's agent's or employee's duties commits a class two misdemeanor

(That is punishable by up to 120 days in jail and/or up to a \$750 fine. From 1969 to 2021 it was punishable by up to 90 days in jail and or a \$300 fine. SB21-271 changed it from a specific penalty as a non-classified misdemeanor to a class 2 misdemeanor and raising the penalty).

&

C.R.S. §18-9-115(1) A person commits endangering public transportation if such person:

(a) Tamper with a facility of public transportation with the intent to cause any damage, malfunction, nonfunction, theft, or unauthorized removal of material which would result in the creation of substantial risk of death or serious bodily injury to anyone; or

(c) On a public conveyance, knowingly threatens any operator, crew member, attendant, or passenger:

(I) With death or imminent serious bodily injury; or

(II) With a deadly weapon or with words or actions intended to induce a belief that such person is armed with a deadly weapon.

(This is a class 3 felony punishable by a presumptive sentence of 4 years to 12 years in prison and or up to a \$750,000 fine, even more prison time if there is aggravation).