

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

March 14, 2019

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB19-1030 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
- 3 "SECTION 1. In Colorado Revised Statutes, add 18-3-418 as
4 follows:
- 5 **18-3-418. Unlawful electronic sexual communication - person**
6 **in a position of trust - definitions.** (1) AN ACTOR COMMITS UNLAWFUL
7 ELECTRONIC SEXUAL COMMUNICATION IF THE ACTOR KNOWINGLY
8 IMPORTUNES, INVITES, OR ENTICES THROUGH COMMUNICATION VIA A
9 COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA
10 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE A PERSON WHOM
11 THE ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER
12 BUT LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS
13 YOUNGER THAN THE ACTOR, AND THE ACTOR COMMITTING THE OFFENSE
14 IS ONE IN A POSITION OF TRUST WITH RESPECT TO THAT PERSON, TO:
- 15 (a) EXPOSE OR TOUCH THE PERSON'S OWN OR ANOTHER PERSON'S
16 INTIMATE PARTS WHILE COMMUNICATING WITH THE ACTOR VIA A
17 COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA
18 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE; OR
- 19 (b) OBSERVE THE ACTOR'S INTIMATE PARTS VIA A COMPUTER
20 NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA NETWORK OR BY
21 A TEXT MESSAGE OR INSTANT MESSAGE.
- 22 (2) AN ACTOR COMMITS UNLAWFUL ELECTRONIC SEXUAL
23 COMMUNICATION IF THE ACTOR KNOWINGLY COMMUNICATES OVER A
24 COMPUTER OR COMPUTER NETWORK, TELEPHONE NETWORK, OR DATA

1 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE TO A PERSON THE
2 ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER BUT
3 LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER
4 THAN THE ACTOR AND, IN THAT COMMUNICATION OR IN ANY SUBSEQUENT
5 COMMUNICATION BY COMPUTER OR COMPUTER NETWORK, TELEPHONE
6 NETWORK, OR DATA NETWORK OR BY TEXT MESSAGE OR INSTANT
7 MESSAGE, DESCRIBES EXPLICIT SEXUAL CONDUCT AS DEFINED IN SECTION
8 18-6-403 (2)(e) AND, IN CONNECTION WITH THAT DESCRIPTION, MAKES A
9 STATEMENT PERSUADING OR INVITING THE PERSON TO MEET THE ACTOR
10 FOR ANY PURPOSE, AND THE ACTOR COMMITTING THE OFFENSE IS ONE IN
11 A POSITION OF TRUST WITH RESPECT TO THAT PERSON.

12 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "EXPLICIT SEXUAL CONDUCT" HAS THE SAME MEANING AS
15 SECTION 18-6-403 (2)(e).

16 (b) "IN CONNECTION WITH" MEANS COMMUNICATIONS THAT
17 FURTHER, ADVANCE, PROMOTE, OR HAVE A CONTINUITY OF PURPOSE AND
18 MAY OCCUR BEFORE, DURING, OR AFTER THE INVITATION TO MEET.

19 (c) "POSITION OF TRUST" HAS THE SAME MEANING AS SECTION
20 18-3-401 (3.5).

21 (4) (a) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IN
22 VIOLATION OF SUBSECTION (1) OF THIS SECTION IS A CLASS 6 FELONY.

23 (b) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IN
24 VIOLATION OF SUBSECTION (2) OF THIS SECTION IS A CLASS 6 FELONY;
25 EXCEPT THAT UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IS A
26 CLASS 5 FELONY IF COMMITTED WITH THE INTENT TO MEET FOR THE
27 PURPOSE OF ENGAGING IN SEXUAL EXPLOITATION AS DEFINED IN SECTION
28 18-6-403 OR SEXUAL CONTACT AS DEFINED IN SECTION 18-3-401.

29 **SECTION 2.** In Colorado Revised Statutes, 16-11.7-102, **amend**
30 the introductory portion, (3)(x), and (3)(y); and **add** (3)(z) as follows:

31 **16-11.7-102. Definitions.** As used in this ~~article~~ ARTICLE 11.7,
32 unless the context otherwise requires:

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

35 (x) Public indecency, committed in violation of section 18-7-301
36 (2)(b), ~~C.R.S.~~; if a second offense is committed within five years of the
37 previous offense or a third or subsequent offense is committed; ~~or~~

38 (y) Invasion of privacy for sexual gratification, as described in
39 section 18-3-405.6; ~~C.R.S.~~; OR

40 (z) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, IN
41 VIOLATION OF SECTION 18-3-418.

1 **SECTION 3.** In Colorado Revised Statutes, 16-22-102, **amend**
2 (9)(aa) and (9)(bb); and **add** (9)(cc) as follows:

3 **16-22-102. Definitions.** As used in this article 22, unless the
4 context otherwise requires:

5 (9) "Unlawful sexual behavior" means any of the following
6 offenses or criminal attempt, conspiracy, or solicitation to commit any of
7 the following offenses:

8 (aa) Invasion of privacy for sexual gratification, in violation of
9 section 18-3-405.6; ~~C.R.S.~~; or

10 (bb) Second degree kidnapping, if committed in violation of
11 section 18-3-302 (3)(a); ~~C.R.S.~~; OR

12 (cc) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, IN
13 VIOLATION OF SECTION 18-3-418.

14 **SECTION 4.** In Colorado Revised Statutes, 18-3-411, **amend** (1)
15 as follows:

16 **18-3-411. Sex offenses against children - "unlawful sexual**
17 **offense" defined - limitation for commencing proceedings - evidence**
18 **- statutory privilege.** (1) As used in this section, "unlawful sexual
19 offense" means enticement of a child, as described in section 18-3-305;
20 sexual assault, as described in section 18-3-402, when the victim at the
21 time of the commission of the act is a child less than fifteen years of age;
22 sexual assault in the first degree, as described in section 18-3-402, as it
23 existed prior to July 1, 2000, when the victim at the time of the
24 commission of the act is a child less than fifteen years of age; sexual
25 assault in the second degree, as described in section 18-3-403 (1)(a),
26 (1)(b), (1)(c), (1)(d), (1)(g), or (1)(h), as it existed prior to July 1, 2000,
27 when the victim at the time of the commission of the act is a child less
28 than fifteen years of age, or as described in section 18-3-403 (1)(e), as it
29 existed prior to July 1, 2000, when the victim is less than fifteen years of
30 age and the actor is at least four years older than the victim; unlawful
31 sexual contact, as described in section 18-3-404 (1)(a), (1)(b), (1)(c),
32 (1)(d), (1)(f), or (1)(g), when the victim at the time of the commission of
33 the act is a child less than fifteen years of age; sexual assault in the third
34 degree, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d),
35 (1)(f), or (1)(g), as it existed prior to July 1, 2000, when the victim at the
36 time of the commission of the act is a child less than fifteen years of age;
37 sexual assault on a child, as described in section 18-3-405; sexual assault
38 on a child by one in a position of trust, as described in section 18-3-405.3;
39 aggravated incest, as described in section 18-6-302; human trafficking of
40 a minor for sexual servitude, as described in section 18-3-504 (2); sexual
41 exploitation of a child, as described in section 18-6-403; procurement of

1 a child for sexual exploitation, as described in section 18-6-404; indecent
2 exposure, as described in section 18-7-302, soliciting for child
3 prostitution, as described in section 18-7-402; pandering of a child, as
4 described in section 18-7-403; procurement of a child, as described in
5 section 18-7-403.5; keeping a place of child prostitution, as described in
6 section 18-7-404; pimping of a child, as described in section 18-7-405;
7 inducement of child prostitution, as described in section 18-7-405.5;
8 patronizing a prostituted child, as described in section 18-7-406; class 4
9 felony internet luring of a child, as described in section 18-3-306 (3);
10 internet sexual exploitation of a child, as described in section 18-3-405.4;
11 UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, AS DESCRIBED IN
12 SECTION 18-3-418; or criminal attempt, conspiracy, or solicitation to
13 commit any of the acts specified in this subsection (1).

14 **SECTION 5. Potential appropriation.** Pursuant to section
15 2-2-703, C.R.S., any bill that results in a net increase in periods of
16 imprisonment in state correctional facilities must include an appropriation
17 of money that is sufficient to cover any increased capital construction, any
18 operational costs, and increased parole costs that are the result of the bill
19 for the department of corrections in each of the first five years following
20 the effective date of the bill. Because this act may increase periods of
21 imprisonment, this act may require a five-year appropriation.

22 **SECTION 6. Effective date - applicability.** This act takes effect
23 July 1, 2019, and applies to offenses committed on or after said date.

24 **SECTION 7. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, and safety."

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