

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0713.01 Michael Dohr x4347

HOUSE BILL 19-1030

HOUSE SPONSORSHIP

Soper and Roberts,

SENATE SPONSORSHIP

Rankin and Zenzinger,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CREATING THE CRIME OF UNLAWFUL ELECTRONIC**
102 **SEXUAL COMMUNICATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the crime of unlawful electronic sexual communication. The bill prohibits a person who is in a position of trust with respect to a child from communicating with that child through electronic means and describing explicit sexual conduct in the communication.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
March 19, 2019

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 18-3-418 as
3 follows:

4 **18-3-418. Unlawful electronic sexual communication - person**
5 **in a position of trust - definitions.** (1) AN ACTOR COMMITS UNLAWFUL

6 ELECTRONIC SEXUAL COMMUNICATION IF THE ACTOR KNOWINGLY
7 IMPORTUNES, INVITES, OR ENTICES THROUGH COMMUNICATION VIA A
8 COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA
9 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE A PERSON WHOM
10 THE ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER
11 BUT LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS
12 YOUNGER THAN THE ACTOR, AND THE ACTOR COMMITTING THE OFFENSE
13 IS ONE IN A POSITION OF TRUST WITH RESPECT TO THAT PERSON, TO:

14 (a) EXPOSE OR TOUCH THE PERSON'S OWN OR ANOTHER PERSON'S
15 INTIMATE PARTS WHILE COMMUNICATING WITH THE ACTOR VIA A
16 COMPUTER NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA
17 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE; OR

18 (b) OBSERVE THE ACTOR'S INTIMATE PARTS VIA A COMPUTER
19 NETWORK OR SYSTEM, TELEPHONE NETWORK, OR DATA NETWORK OR BY
20 A TEXT MESSAGE OR INSTANT MESSAGE.

21 (2) AN ACTOR COMMITS UNLAWFUL ELECTRONIC SEXUAL
22 COMMUNICATION IF THE ACTOR KNOWINGLY COMMUNICATES OVER A
23 COMPUTER OR COMPUTER NETWORK, TELEPHONE NETWORK, OR DATA
24 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE TO A PERSON THE
25 ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER BUT
26 LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER

1 THAN THE ACTOR AND, IN THAT COMMUNICATION OR IN ANY SUBSEQUENT
2 COMMUNICATION BY COMPUTER OR COMPUTER NETWORK, TELEPHONE
3 NETWORK, OR DATA NETWORK OR BY TEXT MESSAGE OR INSTANT
4 MESSAGE, DESCRIBES EXPLICIT SEXUAL CONDUCT AS DEFINED IN SECTION
5 18-6-403 (2)(e) AND, IN CONNECTION WITH THAT DESCRIPTION, MAKES A
6 STATEMENT PERSUADING OR INVITING THE PERSON TO MEET THE ACTOR
7 FOR ANY PURPOSE, AND THE ACTOR COMMITTING THE OFFENSE IS ONE IN
8 A POSITION OF TRUST WITH RESPECT TO THAT PERSON.

9 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

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

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

16 (c) "POSITION OF TRUST" HAS THE SAME MEANING AS SECTION
17 18-3-401 (3.5).

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

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

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

1 **16-11.7-102. Definitions.** As used in this ~~article~~ ARTICLE 11.7,
2 unless the context otherwise requires:

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

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

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

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

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

14 **16-22-102. Definitions.** As used in this article 22, unless the
15 context otherwise requires:

16 (9) "Unlawful sexual behavior" means any of the following
17 offenses or criminal attempt, conspiracy, or solicitation to commit any of
18 the following offenses:

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

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

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

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

27 **18-3-411. Sex offenses against children - "unlawful sexual**

1 **offense" defined - limitation for commencing proceedings - evidence**
2 **- statutory privilege. (1)** As used in this section, "unlawful sexual
3 offense" means enticement of a child, as described in section 18-3-305;
4 sexual assault, as described in section 18-3-402, when the victim at the
5 time of the commission of the act is a child less than fifteen years of age;
6 sexual assault in the first degree, as described in section 18-3-402, as it
7 existed prior to July 1, 2000, when the victim at the time of the
8 commission of the act is a child less than fifteen years of age; sexual
9 assault in the second degree, as described in section 18-3-403 (1)(a),
10 (1)(b), (1)(c), (1)(d), (1)(g), or (1)(h), as it existed prior to July 1, 2000,
11 when the victim at the time of the commission of the act is a child less
12 than fifteen years of age, or as described in section 18-3-403 (1)(e), as it
13 existed prior to July 1, 2000, when the victim is less than fifteen years of
14 age and the actor is at least four years older than the victim; unlawful
15 sexual contact, as described in section 18-3-404 (1)(a), (1)(b), (1)(c),
16 (1)(d), (1)(f), or (1)(g), when the victim at the time of the commission of
17 the act is a child less than fifteen years of age; sexual assault in the third
18 degree, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d),
19 (1)(f), or (1)(g), as it existed prior to July 1, 2000, when the victim at the
20 time of the commission of the act is a child less than fifteen years of age;
21 sexual assault on a child, as described in section 18-3-405; sexual assault
22 on a child by one in a position of trust, as described in section 18-3-405.3;
23 aggravated incest, as described in section 18-6-302; human trafficking of
24 a minor for sexual servitude, as described in section 18-3-504 (2); sexual
25 exploitation of a child, as described in section 18-6-403; procurement of
26 a child for sexual exploitation, as described in section 18-6-404; indecent
27 exposure, as described in section 18-7-302, soliciting for child

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

12 **SECTION 5. Potential appropriation.** Pursuant to section
13 2-2-703, C.R.S., any bill that results in a net increase in periods of
14 imprisonment in state correctional facilities must include an appropriation
15 of money that is sufficient to cover any increased capital construction, any
16 operational costs, and increased parole costs that are the result of the bill
17 for the department of corrections in each of the first five years following
18 the effective date of the bill. Because this act may increase periods of
19 imprisonment, this act may require a five-year appropriation.

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

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