

HB1030\_L.003

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB19-1030 be amended as follows:

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  
25 NETWORK OR BY A TEXT MESSAGE OR INSTANT MESSAGE TO A PERSON THE  
26 ACTOR KNOWS OR BELIEVES TO BE FIFTEEN YEARS OF AGE OR OLDER BUT  
27 LESS THAN EIGHTEEN YEARS OF AGE AND AT LEAST FOUR YEARS YOUNGER  
28 THAN THE ACTOR AND, IN THAT COMMUNICATION OR IN ANY SUBSEQUENT  
29 COMMUNICATION BY COMPUTER OR COMPUTER NETWORK, TELEPHONE  
30 NETWORK, OR DATA NETWORK OR BY TEXT MESSAGE OR INSTANT  
31 MESSAGE, DESCRIBES EXPLICIT SEXUAL CONDUCT AS DEFINED IN SECTION  
32 18-6-403 (2)(e) AND, IN CONNECTION WITH THAT DESCRIPTION, MAKES A  
33 STATEMENT PERSUADING OR INVITING THE PERSON TO MEET THE ACTOR  
34 FOR ANY PURPOSE, AND THE ACTOR COMMITTING THE OFFENSE IS ONE IN  
35 A POSITION OF TRUST WITH RESPECT TO THAT PERSON.

36 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
37 REQUIRES:

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

40 (b) "IN CONNECTION WITH" MEANS COMMUNICATIONS THAT  
41 FURTHER, ADVANCE, PROMOTE, OR HAVE A CONTINUITY OF PURPOSE AND

1 MAY OCCUR BEFORE, DURING, OR AFTER THE INVITATION TO MEET.  
2 (c) "POSITION OF TRUST" HAS THE SAME MEANING AS SECTION  
3 18-3-401 (3.5).

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

6 (b) UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IN  
7 VIOLATION OF SUBSECTION (2) OF THIS SECTION IS A CLASS 6 FELONY;  
8 EXCEPT THAT UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION IS A  
9 CLASS 5 FELONY IF COMMITTED WITH THE INTENT TO MEET FOR THE  
10 PURPOSE OF ENGAGING IN SEXUAL EXPLOITATION AS DEFINED IN SECTION  
11 18-6-403 OR SEXUAL CONTACT AS DEFINED IN SECTION 18-3-401.

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

14 **16-11.7-102. Definitions.** As used in this ~~article~~ ARTICLE 11.7,  
15 unless the context otherwise requires:

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

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

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

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

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

27 **16-22-102. Definitions.** As used in this article 22, unless the  
28 context otherwise requires:

29 (9) "Unlawful sexual behavior" means any of the following  
30 offenses or criminal attempt, conspiracy, or solicitation to commit any of  
31 the following offenses:

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

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

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

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

40 **18-3-411. Sex offenses against children - "unlawful sexual**  
41 **offense" defined - limitation for commencing proceedings - evidence**  
42 **- statutory privilege.** (1) As used in this section, "unlawful sexual  
43 offense" means enticement of a child, as described in section 18-3-305;

1 sexual assault, as described in section 18-3-402, when the victim at the  
2 time of the commission of the act is a child less than fifteen years of age;  
3 sexual assault in the first degree, as described in section 18-3-402, as it  
4 existed prior to July 1, 2000, when the victim at the time of the  
5 commission of the act is a child less than fifteen years of age; sexual  
6 assault in the second degree, as described in section 18-3-403 (1)(a),  
7 (1)(b), (1)(c), (1)(d), (1)(g), or (1)(h), as it existed prior to July 1, 2000,  
8 when the victim at the time of the commission of the act is a child less  
9 than fifteen years of age, or as described in section 18-3-403 (1)(e), as it  
10 existed prior to July 1, 2000, when the victim is less than fifteen years of  
11 age and the actor is at least four years older than the victim; unlawful  
12 sexual contact, as described in section 18-3-404 (1)(a), (1)(b), (1)(c),  
13 (1)(d), (1)(f), or (1)(g), when the victim at the time of the commission of  
14 the act is a child less than fifteen years of age; sexual assault in the third  
15 degree, as described in section 18-3-404 (1)(a), (1)(b), (1)(c), (1)(d),  
16 (1)(f), or (1)(g), as it existed prior to July 1, 2000, when the victim at the  
17 time of the commission of the act is a child less than fifteen years of age;  
18 sexual assault on a child, as described in section 18-3-405; sexual assault  
19 on a child by one in a position of trust, as described in section 18-3-405.3;  
20 aggravated incest, as described in section 18-6-302; human trafficking of  
21 a minor for sexual servitude, as described in section 18-3-504 (2); sexual  
22 exploitation of a child, as described in section 18-6-403; procurement of  
23 a child for sexual exploitation, as described in section 18-6-404; indecent  
24 exposure, as described in section 18-7-302, soliciting for child  
25 prostitution, as described in section 18-7-402; pandering of a child, as  
26 described in section 18-7-403; procurement of a child, as described in  
27 section 18-7-403.5; keeping a place of child prostitution, as described in  
28 section 18-7-404; pimping of a child, as described in section 18-7-405;  
29 inducement of child prostitution, as described in section 18-7-405.5;  
30 patronizing a prostituted child, as described in section 18-7-406; class 4  
31 felony internet luring of a child, as described in section 18-3-306 (3);  
32 internet sexual exploitation of a child, as described in section 18-3-405.4;  
33 UNLAWFUL ELECTRONIC SEXUAL COMMUNICATION, AS DESCRIBED IN  
34 SECTION 18-3-418; or criminal attempt, conspiracy, or solicitation to  
35 commit any of the acts specified in this subsection (1).

36 **SECTION 5. Potential appropriation.** Pursuant to section  
37 2-2-703, C.R.S., any bill that results in a net increase in periods of  
38 imprisonment in state correctional facilities must include an appropriation  
39 of money that is sufficient to cover any increased capital construction, any  
40 operational costs, and increased parole costs that are the result of the bill  
41 for the department of corrections in each of the first five years following  
42 the effective date of the bill. Because this act may increase periods of  
43 imprisonment, this act may require a five-year appropriation.

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

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

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