

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REVISED

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

LLS NO. 10-0911.01 Michael Dohr

HOUSE BILL 10-1334

HOUSE SPONSORSHIP

King S.,

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary

A BILL FOR AN ACT

101 CONCERNING CHANGES TO INDECENCY CRIMES.

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://www.leg.state.co.us/billsummaries>.)

Under current law, a public act of masturbation is a crime under the public indecency statute and is a class 1 petty offense. The bill moves the offense to the crime of indecent exposure, a class 1 misdemeanor.

The bill expands the definition of the crime of public indecency, which is a class 1 petty offense, to include knowingly exposing one's genitals in a way that is likely to cause affront or alarm to another person. If a person has been previously convicted of that same act of public

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

SENATE
Am ended 2nd Reading
April 30, 2010

HOUSE
3rd Reading Unam ended
April 5, 2010

HOUSE
Am ended 2nd Reading
April 1, 2010

indecent, the bill raises the penalty from a class 1 petty offense to a class 1 misdemeanor.

The bill also expands the definition of the crime of indecent exposure to include exposing one's genitals in public with the intent to arouse or satisfy the sexual desire of any person.

The bill adds a subsequent conviction of one provision of the crime of public indecency to the definition of "unlawful sexual behavior" for purposes of the sex offender registration statutes.

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

2 **SECTION 1.** 18-7-301, Colorado Revised Statutes, is amended
3 to read:

4 **18-7-301. Public indecency.** (1) Any person who performs any
5 of the following in a public place or where the conduct may reasonably
6 be expected to be viewed by members of the public commits public
7 indecency:

- 8 (a) An act of sexual intercourse; or
9 ~~(b) An act of deviate sexual intercourse; or~~
10 (c) A lewd exposure of AN INTIMATE PART AS DEFINED BY SECTION
11 18-3-401(2) OF the body, NOT INCLUDING THE GENITALS, done with intent
12 to arouse or to satisfy the sexual desire of any person; or

- 13 (d) A lewd fondling or caress of the body of another person; or
14 (e) ~~An act of masturbation~~ A KNOWING EXPOSURE OF THE
15 PERSON'S GENITALS TO THE VIEW OF A PERSON UNDER CIRCUMSTANCES IN
16 WHICH SUCH CONDUCT IS LIKELY TO CAUSE AFFRONT OR ALARM TO THE
17 OTHER PERSON.

18 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
19 THIS SUBSECTION (2), public indecency is a class 1 petty offense.

20 (b) PUBLIC INDECENCY AS DESCRIBED IN PARAGRAPH (e) OF
21 SUBSECTION (1) OF THIS SECTION IS A CLASS 1 MISDEMEANOR IF THE

1 VIOLATION IS COMMITTED SUBSEQUENT TO A CONVICTION FOR A
2 VIOLATION OF PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION OR FOR
3 A VIOLATION OF A COMPARABLE OFFENSE IN ANY OTHER STATE OR IN THE
4 UNITED STATES, OR FOR A VIOLATION OF A COMPARABLE MUNICIPAL
5 ORDINANCE.

6 (3) ~~For purposes of this section, "masturbation" means the real or~~
7 ~~simulated touching, rubbing, or otherwise stimulating of a person's own~~
8 ~~genitals or pubic area for the purpose of sexual gratification or arousal of~~
9 ~~the person, regardless of whether the genitals or pubic area is exposed or~~
10 ~~covered.~~

11 **SECTION 2.** 18-7-302 (1), Colorado Revised Statutes, is
12 amended, and the said 18-7-302 is further amended BY THE ADDITION
13 OF A NEW SUBSECTION, to read:

14 **18-7-302. Indecent exposure.** (1) A person commits indecent
15 exposure:

16 (a) If he OR SHE knowingly exposes his OR HER genitals to the
17 view of any person under circumstances in which such conduct is likely
18 to cause affront or alarm to the other person WITH THE INTENT TO AROUSE
19 OR TO SATISFY THE SEXUAL DESIRE OF ANY PERSON;

20 (b) IF HE OR SHE KNOWINGLY PERFORMS AN ACT OF
21 MASTURBATION IN A MANNER WHICH EXPOSES THE ACT TO THE VIEW OF
22 ANY PERSON UNDER CIRCUMSTANCES IN WHICH SUCH CONDUCT IS LIKELY
23 TO CAUSE AFFRONT OR ALARM TO THE OTHER PERSON.

24 (5) FOR PURPOSES OF THIS SECTION, "MASTURBATION" MEANS THE
25 REAL OR SIMULATED TOUCHING, RUBBING, OR OTHERWISE STIMULATING
26 OF A PERSON'S OWN GENITALS OR PUBIC AREA FOR THE PURPOSE OF
27 SEXUAL GRATIFICATION OR AROUSAL OF THE PERSON, REGARDLESS OF

1 WHETHER THE GENITALS OR PUBIC AREA IS EXPOSED OR COVERED.

2 **SECTION 3.** 16-22-102 (9) (x) and (9) (y), Colorado Revised
3 Statutes, are amended, and the said 16-22-102 (9) is further amended BY
4 THE ADDITION OF A NEW PARAGRAPH, to read:

5 **16-22-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

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

10 (x) Class 4 felony internet luring of a child, in violation of section
11 18-3-306 (3), C.R.S.; or

12 (y) Internet sexual exploitation of a child, in violation of section
13 18-3-405.4, C.R.S.; OR

14 (z) PUBLIC INDECENCY, COMMITTED IN VIOLATION OF SECTION
15 18-7-301 (2) (b), C.R.S., IF A SECOND OFFENSE IS COMMITTED WITHIN FIVE
16 YEARS OF THE PREVIOUS OFFENSE OR A THIRD OR SUBSEQUENT OFFENSE IS
17 COMMITTED.

18 **SECTION 4.** 16-11.7-102 (3) (v) and (3) (w), Colorado Revised
19 Statutes, are amended, and the said 16-11.7-102 (3) is further amended
20 BY THE ADDITION OF A NEW PARAGRAPH, to read:

21 **16-11.7-102. Definitions.** As used in this article, unless the
22 context otherwise requires:

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

25 (v) Class 4 felony internet luring of a child, in violation of section
26 18-3-306 (3), C.R.S.; or

27 (w) Internet sexual exploitation of a child in violation of section

1 18-3-405.4, C.R.S.; OR

2 (x) PUBLIC INDECENCY, COMMITTED IN VIOLATION OF SECTION
3 18-7-301 (2) (b), C.R.S., IF A SECOND OFFENSE IS COMMITTED WITHIN FIVE
4 YEARS OF THE PREVIOUS OFFENSE OR A THIRD OR SUBSEQUENT OFFENSE IS
5 COMMITTED.

6 **SECTION 5. Act subject to petition - effective date.** This act
7 shall take effect at 12:01 a.m. on the day following the expiration of the
8 ninety-day period after final adjournment of the general assembly (August
9 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
10 referendum petition is filed pursuant to section 1 (3) of article V of the
11 state constitution against this act or an item, section, or part of this act
12 within such period, then the act, item, section, or part shall not take effect
13 unless approved by the people at the general election to be held in
14 November 2010 and shall take effect on the date of the official
15 declaration of the vote thereon by the governor.