

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 10-0783.01 Michael Dohr

HOUSE BILL 10-1277

HOUSE SPONSORSHIP

DelGrosso, Waller

SENATE SPONSORSHIP

Steadman,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING AN EXTENSION OF THE PROHIBITION AGAINST SEXUAL**
102 **CONDUCT IN CORRECTIONAL INSTITUTIONS, AND MAKING AN**
103 **APPROPRIATION THEREFOR.**

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>.)

Current law prohibits a correctional employee or volunteer from engaging in sexual activity with an inmate. The bill extends that prohibition to engaging in sexual activity with a person or with a juvenile in a detention or commitment facility.

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.

The bill makes a 5-year appropriation.

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

2 **SECTION 1.** 18-7-701, Colorado Revised Statutes, is amended
3 to read:

4 **18-7-701. Sexual conduct in a correctional institution.** (1) An
5 employee, contract employee, or volunteer of a ~~criminal justice facility~~
6 CORRECTIONAL INSTITUTION or an individual who performs work or
7 volunteer functions in a ~~criminal justice facility~~ or for the department of
8 ~~corrections~~ CORRECTIONAL INSTITUTION who engages in sexual conduct
9 with a person who is in lawful custody in a ~~criminal justice facility~~
10 CORRECTIONAL INSTITUTION commits the offense of sexual conduct in a
11 ~~penal institution~~ CORRECTIONAL INSTITUTION.

12 (2) For purposes of this section:

13 (a) "~~Criminal justice facility~~" "CORRECTIONAL INSTITUTION"
14 means a correctional facility, as defined in section 17-1-102 (1.7), C.R.S.,
15 A LOCAL JAIL, AS DEFINED IN SECTION 17-1-102 (7), C.R.S., operated by
16 or under contract with the department of corrections, ~~or~~ a jail, OR A
17 FACILITY OPERATED BY OR UNDER CONTRACT WITH THE DEPARTMENT OF
18 HUMAN SERVICES IN WHICH JUVENILES ARE OR MAY BE LAWFULLY HELD
19 FOR DETENTION OR COMMITMENT FOR THE COMMISSION OF A CRIME.

20 (b) "Sexual conduct" means sexual contact as defined in section
21 18-3-401 (4), sexual intrusion as defined in section 18-3-401 (5), or
22 sexual penetration as defined in section 18-3-401 (6). "Sexual conduct"
23 does not include acts of an employee of a ~~criminal justice facility~~
24 CORRECTIONAL INSTITUTION or a person who has custody of another
25 person that are performed to carry out the necessary duties of the

1 employee or the person with custody.

2 (3) Sexual conduct in a ~~penal institution~~ CORRECTIONAL
3 INSTITUTION is a class 5 felony if the sexual conduct includes sexual
4 intrusion or sexual penetration and is committed by an employee or
5 contract employee of a ~~criminal justice facility~~ CORRECTIONAL
6 INSTITUTION or by an employee, contract employee, or individual who
7 performs work functions in a ~~criminal justice facility~~ CORRECTIONAL
8 INSTITUTION or for the department of corrections OR DEPARTMENT OF
9 HUMAN SERVICES.

10 (4) Sexual conduct in a ~~penal institution~~ CORRECTIONAL
11 INSTITUTION is a class 6 felony if:

12 (a) The sexual conduct consists solely of sexual contact and is
13 committed by an employee or contract employee of a ~~criminal justice~~
14 ~~facility~~ CORRECTIONAL INSTITUTION or by an employee, contract
15 employee, or individual who performs work functions in a ~~criminal~~
16 ~~justice facility~~ CORRECTIONAL INSTITUTION or for the department of
17 corrections OR DEPARTMENT OF HUMAN SERVICES; or

18 (b) The sexual conduct includes sexual intrusion or sexual
19 penetration and is committed by a volunteer.

20 (5) Sexual conduct in a ~~penal institution~~ CORRECTIONAL
21 INSTITUTION is a class 1 misdemeanor if the sexual conduct consists
22 solely of sexual contact and is committed by a volunteer.

23 **SECTION 2.** 16-22-102 (9) (u), Colorado Revised Statutes, is
24 amended to read:

25 **16-22-102. Definitions.** As used in this article, unless the context
26 otherwise requires:

27 (9) "Unlawful sexual behavior" means any of the following

1 offenses or criminal attempt, conspiracy, or solicitation to commit any of
2 the following offenses:

3 (u) Engaging in sexual conduct in a ~~penal~~ CORRECTIONAL
4 institution, in violation of section 18-7-701, C.R.S.;

5 **SECTION 3.** 16-22-112 (2) (b) (II) (F), Colorado Revised
6 Statutes, is amended to read:

7 **16-22-112. Release of information - law enforcement agencies.**

8 (2) (b) A local law enforcement agency may post on its web site sex
9 offender registration information of a person from its registration list only
10 if the person is:

11 (II) An adult convicted of a second or subsequent offense of any
12 of the following misdemeanors:

13 (F) Sexual conduct in a ~~penal~~ CORRECTIONAL institution as
14 described in section 18-7-701, C.R.S.;

15 **SECTION 4.** Article 18 of title 17, Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW SECTION to read:

17 **17-18-105. Appropriation to comply with section 2-2-703 - HB**
18 **10-##### - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
19 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
20 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 10-____,
21 ENACTED IN 2010:

22 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
23 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
24 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
25 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
26 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

27 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN

1 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
2 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
3 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
4 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

5 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, IN ADDITION
6 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
7 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
8 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

9 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
10 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
11 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
12 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
13 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

14 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
15 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
16 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
17 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

18 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN
19 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
20 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
21 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
22 FUND CREATED IN SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

23 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
24 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
25 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
26 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

27 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION

1 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
2 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
3 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
4 SECTION 17-1-116, THE SUM OF _____ DOLLARS (\$).

5 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
6 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
7 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
8 OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

9 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

10 **SECTION 5.** The introductory portion to 24-75-302 (2) and
11 24-75-302 (2) (w), (2) (x), and (2) (y), Colorado Revised Statutes, are
12 amended, and the said 24-75-302 (2) is further amended BY THE
13 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

14 **24-75-302. Capital construction fund - capital assessment fees**
15 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
16 through July 1, ~~2012~~ 2014, a sum as specified in this subsection (2) shall
17 accrue to the capital construction fund. The state treasurer and the
18 controller shall transfer such sum out of the general fund and into the
19 capital construction fund as moneys become available in the general fund
20 during the fiscal year beginning on said July 1. Transfers between funds
21 pursuant to this subsection (2) shall not be deemed to be appropriations
22 subject to the limitations of section 24-75-201.1. The amount that shall
23 accrue pursuant to this subsection (2) shall be as follows:

24 (w) On July 1, 2010, five hundred twenty-three thousand one
25 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
26 regular session of the sixty-fifth general assembly; plus five hundred
27 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.

1 06-207, enacted at the second regular session of the sixty-fifth general
2 assembly; plus forty-three thousand five hundred ninety-seven dollars
3 pursuant to H.B. 06-1145, enacted at the second regular session of the
4 sixty-fifth general assembly; plus five hundred twenty-three thousand one
5 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
6 second regular session of the sixty-fifth general assembly; plus sixty-nine
7 thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,
8 enacted at the first extraordinary session of the sixty-fifth general
9 assembly; plus seven hundred fifty thousand nine hundred ninety dollars
10 pursuant to S.B. 07-096, enacted at the first regular session of the
11 sixty-sixth general assembly; plus one hundred twelve thousand six
12 hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the
13 second regular session of the sixty-sixth general assembly; plus one
14 hundred thirty-seven thousand six hundred eighty-two dollars pursuant to
15 S.B. 08-239, enacted at the second regular session of the sixty-sixth
16 general assembly; PLUS _____ DOLLARS PURSUANT TO H.B. 10-____,
17 ENACTED IN 2010;

18 (x) On July 1, 2011, seven hundred fifty thousand nine hundred
19 ninety dollars pursuant to S.B. 07-096, enacted at the first regular session
20 of the sixty-sixth general assembly; plus three hundred seventy-five
21 thousand four hundred ninety-five dollars pursuant to S.B. 08-239,
22 enacted at the second regular session of the sixty-sixth general assembly;
23 PLUS _____ DOLLARS PURSUANT TO H.B. 10-____, ENACTED IN 2010;

24 (y) On July 1, 2012, one hundred twelve thousand six hundred
25 forty-nine dollars pursuant to H.B. 08-1115, enacted at the second regular
26 session of the sixty-sixth general assembly; plus three hundred
27 seventy-five thousand four hundred ninety-five dollars pursuant to S.B.

1 08-239, enacted at the second regular session of the sixty-sixth general
2 assembly; PLUS _____ DOLLARS PURSUANT TO H.B. 10-____, ENACTED
3 IN 2010;

4 (z) ON JULY 1, 2013, _____ DOLLARS PURSUANT TO H.B. 10-____,
5 ENACTED IN 2010;

6 (aa) ON JULY 1, 2014, _____ DOLLARS PURSUANT TO H.B.
7 10-____, ENACTED IN 2010.

8 **SECTION 6. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.