

**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. 10-0783.01 Michael Dohr

HOUSE BILL 10-1277

HOUSE SPONSORSHIP

DelGrosso, Waller

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Finance
Appropriations

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.*

SENATE
Am ended 2nd Reading
May 7, 2010

HOUSE
3rd Reading Unamended
April 15, 2010

HOUSE
Am ended 2nd Reading
April 14, 2010

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, ■ 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, OR A~~
20 ~~FACILITY OF A COMMUNITY CORRECTIONS PROGRAM AS DEFINED IN~~
21 ~~SECTION 17-27-102 (3), C.R.S.~~

22 (b) "Sexual conduct" means sexual contact as defined in section
23 18-3-401 (4), sexual intrusion as defined in section 18-3-401 (5), or
24 sexual penetration as defined in section 18-3-401 (6). "Sexual conduct"
25 does not include acts of an employee of a ~~criminal justice facility~~

1 CORRECTIONAL INSTITUTION or a person who has custody of another
2 person that are performed to carry out the necessary duties of the
3 employee or the person with custody.

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

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

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

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

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

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

1 **16-22-102. Definitions.** As used in this article, unless the context
2 otherwise requires:

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

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

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

10 **16-22-112. Release of information - law enforcement agencies.**

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

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

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

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

20 **17-18-105. Appropriation to comply with section 2-2-703 - HB**

21 **10-1277 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
22 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
23 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 10-1277,
24 ENACTED IN 2010:

25 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
26 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
27 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,

1 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
2 SECTION 17-1-116, THE SUM OF EIGHTY-THREE THOUSAND EIGHT HUNDRED
3 SIXTY-ONE DOLLARS (\$83,861).

4 [REDACTED]
5 (b) 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 TWENTY-EIGHT THOUSAND
9 FOURTEEN DOLLARS (\$28,014).

10 [REDACTED]
11 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, IN ADDITION
12 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
13 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
14 OTHERWISE APPROPRIATED, THE SUM OF FOUR THOUSAND FOUR HUNDRED
15 EIGHTY-TWO DOLLARS (\$4,482).

16 [REDACTED]
17 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

18 **SECTION 5.** The introductory portion to 24-75-302 (2) and
19 24-75-302 (2) (w), [REDACTED] Colorado Revised Statutes, [REDACTED] is amended
20 [REDACTED] to read:

21 **24-75-302. Capital construction fund - capital assessment fees**
22 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
23 through July 1, 2012, a sum as specified in this subsection (2) shall accrue
24 to the capital construction fund. The state treasurer and the controller
25 shall transfer such sum out of the general fund and into the capital
26 construction fund as moneys become available in the general fund during
27 the fiscal year beginning on said July 1. Transfers between funds

1 pursuant to this subsection (2) shall not be deemed to be appropriations
2 subject to the limitations of section 24-75-201.1. The amount that shall
3 accrue pursuant to this subsection (2) shall be as follows:

4 (w) On July 1, 2010, five hundred twenty-three thousand one
5 hundred sixty-four dollars pursuant to S.B. 06-206, enacted at the second
6 regular session of the sixty-fifth general assembly; plus five hundred
7 twenty-three thousand one hundred sixty-four dollars pursuant to S.B.
8 06-207, enacted at the second regular session of the sixty-fifth general
9 assembly; plus forty-three thousand five hundred ninety-seven dollars
10 pursuant to H.B. 06-1145, enacted at the second regular session of the
11 sixty-fifth general assembly; plus five hundred twenty-three thousand one
12 hundred sixty-four dollars pursuant to H.B. 06-1011, enacted at the
13 second regular session of the sixty-fifth general assembly; plus sixty-nine
14 thousand seven hundred fifty-five dollars pursuant to S.B. 06S-004,
15 enacted at the first extraordinary session of the sixty-fifth general
16 assembly; plus seven hundred fifty thousand nine hundred ninety dollars
17 pursuant to S.B. 07-096, enacted at the first regular session of the
18 sixty-sixth general assembly; plus one hundred twelve thousand six
19 hundred forty-nine dollars pursuant to H.B. 08-1115, enacted at the
20 second regular session of the sixty-sixth general assembly; plus one
21 hundred thirty-seven thousand six hundred eighty-two dollars pursuant to
22 S.B. 08-239, enacted at the second regular session of the sixty-sixth
23 general assembly; PLUS EIGHTY-THREE THOUSAND EIGHT HUNDRED
24 SIXTY-ONE DOLLARS PURSUANT TO H.B. 10-1277, ENACTED AT THE
25 SECOND REGULAR SESSION OF THE SIXTY-SEVENTH GENERAL ASSEMBLY;

26 [REDACTED]

27 **SECTION 6. Appropriation - legislative intent.** (1) It is the

1 intent of the general assembly that the general fund appropriation for the
2 implementation of this act shall be derived from savings generated from
3 the implementation of the provisions of House Bill 10-1338, as enacted
4 during the second regular session of the sixty-seventh general assembly.

5 **SECTION 7. Effective date.** (1) This act shall take effect upon
6 passage.

7 (2) Notwithstanding the provisions of subsection (1) of this
8 section, this act shall only take effect if:

9 (a) The final fiscal estimate for House Bill 10-1338 determined
10 from the appropriations enacted in said bill shows a net reduction in the
11 amount of general fund revenues appropriated for state fiscal year
12 2010-11 that is equal to or greater than the amount of the general fund
13 transfer made for the implementation of this act for state fiscal year
14 2010-11, as reflected in section 4 of this act; and

15 (b) House Bill 10-1338 is enacted at the second regular session of
16 the sixty-seventh general assembly and becomes law; and

17 (c) The staff director of the joint budget committee files written
18 notice with the revisor of statutes no later than July 15, 2010, that the
19 requirement set forth in paragraph (a) of this subsection (2) has been met.

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