

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0311.02 Michael Dohr x4347

HOUSE BILL 14-1260

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

Johnston,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THREE MANDATORY MINIMUM
102 PRESUMPTIVE RANGES FOR DEFENDANTS CONVICTED OF A
103 FELONY SEX OFFENSE INVOLVING INTRUSION AGAINST A CHILD
104 WHO IS UNDER TWELVE YEARS OF AGE WHEN THE ADULT
105 DEFENDANT IS AT LEAST TEN YEARS OLDER THAT HAS ONE OF
106 THE RANGES STARTING AT TEN YEARS AS THE MINIMUM IN THE
107 RANGE, AND, IN CONNECTION THEREWITH, CREATING AN
108 INDETERMINATE LIFETIME SENTENCE WITH A MANDATORY
109 MINIMUM PRESUMPTIVE RANGE OF TEN TO SIXTEEN YEARS FOR
110 A CLASS 4 FELONY; A MANDATORY MINIMUM PRESUMPTIVE
111 RANGE OF EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3
112 FELONY; AND A MANDATORY MINIMUM PRESUMPTIVE RANGE OF

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.

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>.)

The bill requires a court to impose a sentence within an indeterminate minimum presumptive range to a maximum of the offender's life upon an adult offender if he or she commits a class 2, class 3, or class 4 felony sexual assault that includes intrusion or penetration against a child who is under 12 years of age at the time of the offense and the offender is at least 10 years older than the child. For a class 2 felony the presumptive range is 24 to 48 years, for a class 3 felony it is 18 to 32 years, and for a class 4 felony it is 10 to 16 years.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1.3-1004, **amend**
 3 (2) (a); and **add** (1) (e) as follows:

4 **18-1.3-1004. Indeterminate sentence.** (1) (e) (I)
 5 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DISTRICT COURT
 6 SHALL SENTENCE A SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT
 7 FOR AN INDETERMINATE TERM AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS
 8 PARAGRAPH (e) IF THE SEX OFFENDER:

9 (A) COMMITTED A CLASS 2, CLASS 3, OR CLASS 4 SEX OFFENSE IN
 10 VIOLATION OF SECTION 18-3-402, 18-3-405, OR 18-3-405.3 WHEN THE ACT
 11 INCLUDES SEXUAL INTRUSION AS DEFINED IN SECTION 18-3-401 (5) OR
 12 SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401 (6);

13 (B) COMMITTED THE ACT AGAINST A CHILD WHO WAS UNDER
 14 TWELVE YEARS OF AGE AT THE TIME OF THE OFFENSE; AND

15 (C) WAS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TEN

1 YEARS OLDER THAN THE CHILD.

2 (II) THE DISTRICT COURT SHALL SENTENCE A SEX OFFENDER TO
3 THE DEPARTMENT OF CORRECTIONS FOR AN INDETERMINATE TERM OF
4 INCARCERATION OF:

5 (A) AT LEAST TEN TO SIXTEEN YEARS FOR A CLASS 4 FELONY TO A
6 MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN THIS
7 SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e);

9 (B) AT LEAST EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3
10 FELONY TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN
11 THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e); AND

13 (C) AT LEAST TWENTY-FOUR TO FORTY-EIGHT YEARS FOR A CLASS
14 2 FELONY, TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED
15 IN THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED
16 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

17 (2) (a) The district court having jurisdiction, based on
18 consideration of the evaluation conducted pursuant to section
19 16-11.7-104, C.R.S., and the factors specified in section 18-1.3-203, may
20 sentence a sex offender to probation for an indeterminate period of at
21 least ten years for a class 4 felony or twenty years for a class 2 or 3 felony
22 and a maximum of the sex offender's natural life; except that, if the sex
23 offender committed a sex offense that constitutes a crime of violence, as
24 defined in section 18-1.3-406, or committed a sex offense that makes him
25 or her eligible for sentencing as a habitual sex offender against children
26 pursuant to section 18-3-412, OR A SEX OFFENSE REQUIRING SENTENCING
27 PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION, the

1 court shall sentence the sex offender to the department of corrections as
2 provided in subsection (1) of this section. For any sex offender sentenced
3 to probation pursuant to this subsection (2), the court shall order that the
4 sex offender, as a condition of probation, participate in an intensive
5 supervision probation program established pursuant to section
6 18-1.3-1007, until further order of the court.

7 **SECTION 2. Potential appropriation.** Pursuant to section
8 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
9 in periods of imprisonment in the state correctional facilities must include
10 an appropriation of moneys that is sufficient to cover any increased
11 capital construction and operational costs for the first five fiscal years in
12 which there is a fiscal impact. Because this act may increase periods of
13 imprisonment, this act may require a five-year appropriation.

14 **SECTION 3. Effective date - applicability.** This act takes effect
15 July 1, 2014, and applies to offenses committed on or after said date.

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