

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-1023.01 Richard Sweetman x4333

HOUSE BILL 15-1303

HOUSE SPONSORSHIP

Melton,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ELIMINATING THE APPLICATION OF CERTAIN**
102 **SENTENCING PROVISIONS TO CERTAIN PERSONS WHO ARE**
103 **CONVICTED OF ASSAULT IN THE SECOND DEGREE.**

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, for sentencing purposes, second-degree assault is considered a crime of violence if the defendant caused bodily injury to any person with intent to prevent one whom he or she knows, or should know, to be a peace officer, firefighter, or emergency medical service provider from performing a lawful duty. Under the bill, such an offense

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.*

is not necessarily a crime of violence.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-3-203, **amend** (2)
3 (c); and **add** (1) (c.5) as follows:

4 **18-3-203. Assault in the second degree.** (1) A person commits
5 the crime of assault in the second degree if:

6 (c.5) WITH INTENT TO PREVENT ONE WHOM HE OR SHE KNOWS, OR
7 SHOULD KNOW, TO BE A PEACE OFFICER, FIREFIGHTER, OR EMERGENCY
8 MEDICAL SERVICE PROVIDER FROM PERFORMING A LAWFUL DUTY, HE OR
9 SHE INTENTIONALLY CAUSES SERIOUS BODILY INJURY TO ANY PERSON; OR

10 (2) (c) (I) If a defendant is convicted of assault in the second
11 degree pursuant to paragraph (b), (c), (c.5), (d), or (g) of subsection (1)
12 of this section or paragraph (b.5) of this subsection (2), except with
13 respect to sexual assault or sexual assault in the first degree as it existed
14 prior to July 1, 2000, the court shall sentence the defendant in accordance
15 with the provisions of section 18-1.3-406. A defendant convicted of
16 assault in the second degree pursuant to paragraph (b.5) of this subsection
17 (2) with respect to sexual assault or sexual assault in the first degree as it
18 existed prior to July 1, 2000, shall be sentenced in accordance with
19 section 18-1.3-401 (8) (e) or (8) (e.5).

20 (II) IF A DEFENDANT IS CONVICTED OF ASSAULT IN THE SECOND
21 DEGREE PURSUANT TO PARAGRAPH (c) OF SUBSECTION (1) OF THIS
22 SECTION, THE COURT SHALL SENTENCE THE OFFENDER IN ACCORDANCE
23 WITH SECTION 18-1.3-406; EXCEPT THAT, NOTWITHSTANDING THE
24 PROVISIONS OF SECTION 18-1.3-406, THE COURT IS NOT REQUIRED TO
25 SENTENCE THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS FOR A

1 MANDATORY TERM OF INCARCERATION.

2 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-401, **amend**
3 (1) (b) (IV) as follows:

4 **18-1.3-401. Felonies classified - presumptive penalties.**

5 (1) (b) (IV) If a person is convicted of assault in the first degree pursuant
6 to section 18-3-202 or assault in the second degree pursuant to section
7 18-3-203 (1) (c.5), and the victim is a peace officer, firefighter, or
8 emergency medical service provider engaged in the performance of his
9 or her duties, as defined in section 18-1.3-501 (1.5) (b), notwithstanding
10 the provisions of subparagraph (III) of paragraph (a) of this subsection (1)
11 and subparagraph (II) of this paragraph (b), the court shall sentence the
12 person to the department of corrections. In addition to a term of
13 imprisonment, the court may impose a fine on the person pursuant to
14 subparagraph (III) of paragraph (a) of this subsection (1).

15 **SECTION 3. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect September 1, 2015; except that,
17 if a referendum petition is filed pursuant to section 1 (3) of article V of
18 the state constitution against this act or an item, section, or part of this act
19 within the ninety-day period after final adjournment of the general
20 assembly, then the act, item, section, or part will not take effect unless
21 approved by the people at the general election to be held in November
22 2016 and, in such case, will take effect on the date of the official
23 declaration of the vote thereon by the governor.

24 (2) This act applies to offenses committed on or after the
25 applicable effective date of this act.