

**First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO**

**REVISED**

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

LLS NO. 05-0440.01 Michael Dohr

**HOUSE BILL 05-1014**

---

**HOUSE SPONSORSHIP**

**Carroll T.**

**SENATE SPONSORSHIP**

**Grossman**

---

**House Committees**

Judiciary  
Appropriations

**Senate Committees**

Judiciary  
Appropriations

---

**A BILL FOR AN ACT**

101 **CONCERNING SUBSTANTIVE CHANGES TO STRENGTHEN THE STATE**  
102 **CRIMINAL LAW.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

For purposes of the definition of restitution, adds costs incurred as a result of a drug lab clean-up. For purposes of the definition of falsely completing a written instrument in the fraud statutes, removes language that makes it a question of law as to whether information used in completing a written instrument is material. Criminalizes making a credible threat to cause bodily injury with a deadly weapon or death to a person the actor believes to be a student, school official, or employee of an education institution or an invitee on the premises of an educational

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  
Amended 2nd Reading  
May 5, 2005

HOUSE  
3rd Reading Unamended  
April 15, 2005

HOUSE  
Amended 2nd Reading  
April 14, 2005

institution. Adds 2 hallucinogenic substances to schedule I narcotics.

---

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

2 **SECTION 1.** 18-1.3-602 (3), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **18-1.3-602. Definitions.** As used in this part 6, unless the context  
5 otherwise requires:

6 (3) (c) (I) "RESTITUTION" SHALL ALSO INCLUDE ALL COSTS  
7 INCURRED BY A GOVERNMENT AGENCY OR PRIVATE ENTITY TO:

8 (A) REMOVE, CLEAN UP, OR REMEDIATE A PLACE USED TO  
9 MANUFACTURE, OR ATTEMPT TO MANUFACTURE, A CONTROLLED  
10 SUBSTANCE, OR WHICH CONTAINS A CONTROLLED SUBSTANCE, OR WHICH  
11 CONTAINS CHEMICALS, SUPPLIES OR EQUIPMENT USED, OR INTENDED TO BE  
12 USED, IN THE MANUFACTURING OF A CONTROLLED SUBSTANCE; OR

13 (B) STORE, PRESERVE, OR TEST EVIDENCE OF A CONTROLLED  
14 SUBSTANCE VIOLATION.

15 (II) COSTS UNDER THIS PARAGRAPH (c) SHALL INCLUDE, BUT ARE  
16 NOT LIMITED TO, OVERTIME WAGES FOR PEACE OFFICERS OR OTHER  
17 GOVERNMENT EMPLOYEES, THE OPERATING EXPENSES FOR ANY EQUIPMENT  
18 UTILIZED, AND THE COSTS OF ANY PROPERTY DESIGNED FOR ONE-TIME USE,  
19 SUCH AS PROTECTIVE CLOTHING.

20 **SECTION 2.** 18-1.3-602 (4) (a), Colorado Revised Statutes, is  
21 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22 **18-1.3-602. Definitions.** As used in this part 6, unless the context  
23 otherwise requires:

24 (4) (a) "Victim" means any person aggrieved by the conduct of an  
25 offender and includes but is not limited to the following:

1 (VI) ANY PERSON WHO HAD TO EXPEND RESOURCES FOR THE  
2 PURPOSES DESCRIBED IN SUBPARAGRAPH (I) OF PARAGRAPH (C) OF  
3 SUBSECTION (3) OF THIS SECTION.

4 **SECTION 3.** 18-5-101 (3) (b), Colorado Revised Statutes, is  
5 amended to read:

6 **18-5-101. Definitions.** As used in sections 18-5-101 to 18-5-110,  
7 unless the context otherwise requires:

8 (3) To "falsely complete" a written instrument means:

9 (b) To transform an incomplete written instrument into a complete  
10 one by adding or inserting materially false information or adding or  
11 inserting a materially false statement. A materially false statement is a  
12 false assertion that affects the action, conduct, or decision of the person  
13 who receives or is intended to receive the asserted information in a  
14 manner that directly or indirectly benefits the person making the  
15 assertion. ~~Whether information or a statement is material is a question of~~  
16 ~~law.~~

17 **SECTION 4.** 18-9-109 (5), Colorado Revised Statutes, is  
18 amended, and the said 18-9-109 is further amended BY THE ADDITION  
19 OF A NEW SUBSECTION, to read:

20 **18-9-109. Interference with staff, faculty, or students of**  
21 **educational institutions.** (5) Any person who violates any of the  
22 provisions of this section, EXCEPT SUBSECTION (6) OF THIS SECTION,  
23 commits a class 3 misdemeanor.

24 (6) (a) A PERSON SHALL NOT KNOWINGLY MAKE OR CONVEY TO  
25 ANOTHER PERSON A CREDIBLE THREAT TO CAUSE DEATH OR TO CAUSE  
26 BODILY INJURY WITH A DEADLY WEAPON AGAINST:

27 (I) A PERSON THE ACTOR KNOWS OR BELIEVES TO BE A STUDENT,

1 SCHOOL OFFICIAL, OR EMPLOYEE OF AN EDUCATIONAL INSTITUTION; OR

2 (II) AN INVITEE WHO IS ON THE PREMISES OF AN EDUCATIONAL  
3 INSTITUTION.

4 (b) FOR PURPOSES OF THIS SUBSECTION (6), "CREDIBLE THREAT"  
5 MEANS A THREAT OR PHYSICAL ACTION THAT WOULD CAUSE A  
6 REASONABLE PERSON TO BE IN FEAR OF BODILY INJURY WITH A DEADLY  
7 WEAPON OR DEATH.

8 (c) A PERSON WHO VIOLATES THIS SUBSECTION (6) COMMITS A  
9 CLASS 1 MISDEMEANOR.

10 SECTION 5. 18-9-121, Colorado Revised Statutes, is amended  
11 to read:

12 18-9-121. Bias-motivated crimes. (1) The general assembly  
13 hereby finds and declares that it is the right of every person, regardless  
14 of race, color, ancestry, religion, or national origin, PHYSICAL OR MENTAL  
15 DISABILITY, OR SEXUAL ORIENTATION, to be secure and protected from  
16 fear, intimidation, harassment, and physical harm caused by the activities  
17 of individuals and groups. The general assembly further finds that the  
18 advocacy of unlawful acts against persons or groups because of a person's  
19 or group's race, color, ancestry, religion, or national origin, PHYSICAL OR  
20 MENTAL DISABILITY, OR SEXUAL ORIENTATION, for the purpose of inciting  
21 and provoking bodily injury or damage to property, poses a threat to  
22 public order and safety and should be subject to criminal sanctions.

23 (2) A person commits ~~ethnic intimidation~~ A BIAS-MOTIVATED  
24 CRIME if, with the intent to intimidate or harass another person because  
25 of that person's actual or perceived race, color, religion, ancestry, or  
26 national origin, PHYSICAL OR MENTAL DISABILITY, OR SEXUAL  
27 ORIENTATION, he or she:

1           (a) Knowingly causes bodily injury to another person; or  
2           (b) By words or conduct, knowingly places another person in fear  
3           of imminent lawless action directed at that person or that person's  
4           property and such words or conduct are likely to produce bodily injury  
5           to that person or damage to that person's property; or

6           (c) Knowingly causes damage to or destruction of the property of  
7           another person.

8           (3) Ethnic intimidation COMMISSION OF A BIAS-MOTIVATED CRIME  
9           as described in paragraph (b) or (c) of subsection (2) of this section is a  
10          class 1 misdemeanor. Ethnic intimidation COMMISSION OF A  
11          BIAS-MOTIVATED CRIME as described in paragraph (a) of subsection (2)  
12          of this section is a class 5 felony; except that ethnic intimidation  
13          COMMISSION OF A BIAS-MOTIVATED CRIME as described in said paragraph  
14          (a) is a class 4 felony if the offender is physically aided or abetted by one  
15          or more other persons during the commission of the offense.

16          (3.5) (a) IN DETERMINING THE SENTENCE FOR A FIRST-TIME  
17          OFFENDER CONVICTED OF A BIAS-MOTIVATED CRIME, THE COURT SHALL  
18          CONSIDER THE FOLLOWING ALTERNATIVES, WHICH SHALL BE IN ADDITION  
19          TO AND NOT IN LIEU OF ANY OTHER SENTENCE RECEIVED BY THE  
20          OFFENDER:

21                (I) SENTENCING THE OFFENDER TO PAY FOR AND COMPLETE A  
22                PERIOD OF USEFUL COMMUNITY SERVICE INTENDED TO BENEFIT THE PUBLIC  
23                AND ENHANCE THE OFFENDER'S UNDERSTANDING OF THE IMPACT OF THE  
24                OFFENSE UPON THE VICTIM;

25                (II) AT THE REQUEST OF THE VICTIM, REFERRING THE CASE TO A  
26                RESTORATIVE JUSTICE OR OTHER SUITABLE ALTERNATIVE DISPUTE  
27                RESOLUTION PROGRAM ESTABLISHED IN THE JUDICIAL DISTRICT PURSUANT

1 TO SECTION 13-22-313, C.R.S.

2 (b) IN CONSIDERING WHETHER TO IMPOSE THE ALTERNATIVES  
3 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5), THE COURT  
4 SHALL CONSIDER THE CRIMINAL HISTORY OF THE OFFENDER, THE IMPACT  
5 OF THE OFFENSE ON THE VICTIM, THE AVAILABILITY OF THE ALTERNATIVES,  
6 AND THE NATURE OF THE OFFENSE. NOTHING IN THIS SECTION SHALL BE  
7 CONSTRUED TO REQUIRE THE COURT TO IMPOSE THE ALTERNATIVES  
8 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5).

9 (4) The criminal penalty provided in this section for ~~ethnic~~  
10 ~~intimidation~~ COMMISSION OF A BIAS-MOTIVATED CRIME does not preclude  
11 the victim of such action from seeking any other remedies otherwise  
12 available under law.

13 (5) FOR PURPOSES OF THIS SECTION:

14 (a) "PHYSICAL OR MENTAL DISABILITY" REFERS TO A DISABILITY AS  
15 USED IN THE DEFINITION OF THE TERM "PERSON WITH A DISABILITY" IN  
16 SECTION 18-6.5-102 (3).

17 (b) "SEXUAL ORIENTATION" MEANS A PERSON'S ACTUAL OR  
18 PERCEIVED ORIENTATION TOWARD HETEROSEXUALITY, HOMOSEXUALITY,  
19 BISEXUALITY, OR TRANSGENDER STATUS.

20 **SECTION 6.** 24-4.1-302 (1) (cc.3), Colorado Revised Statutes,  
21 is amended to read:

22 **24-4.1-302. Definitions.** As used in this part 3, and for no other  
23 purpose, including the expansion of the rights of any defendant:

24 (1) "Crime" means any of the following offenses as defined by the  
25 statutes of the state of Colorado, whether committed by an adult or a  
26 juvenile:

27 (cc.3) ~~Ethnic intimidation~~ A BIAS-MOTIVATED CRIME, in violation

1 of section 18-9-121, C.R.S.:

2 **SECTION 7.** 18-18-203 (2) (c), Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF THE FOLLOWING NEW  
4 SUBPARAGRAPHS to read:

5 **18-18-203. Schedule I.** (2) Unless specifically excepted by  
6 Colorado or federal law or Colorado or federal regulation or more  
7 specifically included in another schedule, the following controlled  
8 substances are listed in schedule I:

9 (c) Any material, compound, mixture, or preparation containing any  
10 quantity of the following hallucinogenic substances, including any salts,  
11 isomers, and salts of isomers of them that are theoretically possible within  
12 the specific chemical designation:

13 (IV.5) 5-METHOXY-N, N-DIISOPROPYLTRYPTAMINE  
14 (5-MEO-DIPT):

15 (VIII.5) ALPHA-METHYLTRYPTAMINE (AMT):

16 **SECTION 8. Exception to the requirements of section 2-2-703,**  
17 **Colorado Revised Statutes.** The general assembly hereby finds that the  
18 amendments to section 18-9-121, Colorado Revised Statutes, enacted in  
19 this act will result in the minor fiscal impact of one additional offender  
20 being convicted and sentenced to the department of corrections during the  
21 five years following passage of this act. Because of the relative  
22 insignificance of this degree of fiscal impact, these amendments are an  
23 exception to the five-year appropriation requirements specified in section  
24 2-2-703, Colorado Revised Statutes.

25 **SECTION 9. Exception to the requirements of section 2-2-703,**  
26 **Colorado Revised Statutes.** The general assembly hereby finds that the  
27 amendments to section 18-18-203, Colorado Revised Statutes, enacted in

1 this act will result in the minor fiscal impact of one additional offender  
2 being convicted and sentenced to the department of corrections during the  
3 five years following passage of this act. Because of the relative  
4 insignificance of this degree of fiscal impact, these amendments are an  
5 exception to the five-year appropriation requirements specified in section  
6 2-2-703, Colorado Revised Statutes.

7 **SECTION 10. No appropriation.** The general assembly has  
8 determined that this act can be implemented within existing  
9 appropriations, and therefore no separate appropriation of state moneys  
10 is necessary to carry out the purposes of this act.

11

12 **SECTION 11. Effective date - applicability.** This act shall take  
13 effect July 1, 2005, and shall apply to offenses committed on or after said  
14 date.

15 **SECTION 12. Safety clause.** The general assembly hereby  
16 finds, determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, and safety.