

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

PREAMENDED

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

LLS NO. 06-0252.01 Michael Dohr

HOUSE BILL 06-1011

HOUSE SPONSORSHIP

McCluskey,

SENATE SPONSORSHIP

Sandoval,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHILD EXPLOITATION OFFENSES, AND MAKING AN**
102 **APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

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

Prohibits a person from using a computer network to contact a child with the intent to lure the child to meet that person without the express consent of the child's parent or guardian if the person is not related to the child and the child is under 15 years of age and the person is at least 4 years older than the child. Requires an offender convicted of internet luring of a child to register as a sex offender. Applies the 10-year sex offense statute of limitations to internet luring of a child.

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.*

Prohibits a person from using a computer network to entice a child to expose or touch the child's own or another person's intimate parts or observe the person's intimate parts while communicating with the child via a computer network if the child is under 15 years of age and the person is at least 4 years older than the child.

Makes possession of more than 20 different items of sexually exploitative material pertaining to children a class 4 felony.

Makes a 5-year statutory appropriation.

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

2 **SECTION 1.** 16-11.7-102 (3) (t), Colorado Revised Statutes, is
3 amended, and the said 16-11.7-102 (3) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

5 **16-11.7-102. Definitions.** As used in this article, unless the
6 context otherwise requires:

7 (3) "Sex offense" means any felony or misdemeanor offense
8 described in this subsection (3) as follows:

9 (t) Patronizing a prostituted child, in violation of section
10 18-7-406, C.R.S.; or

11 (v) CLASS 4 FELONY INTERNET LURING OF A CHILD, IN VIOLATION
12 OF SECTION 18-3-306 (4), C.R.S.; OR

13 (x) INTERNET SEXUAL EXPLOITATION OF A CHILD IN VIOLATION OF
14 SECTION 18-3-405.4, C.R.S.

15 **SECTION 2.** 16-22-102 (9), Colorado Revised Statutes, is
16 amended BY THE ADDITION OF THE FOLLOWING NEW
17 PARAGRAPHS to read:

18 **16-22-102. Definitions.** As used in this article, unless the context
19 otherwise requires:

20 (9) "Unlawful sexual behavior" means any of the following
21 offenses or criminal attempt, conspiracy, or solicitation to commit any of

1 the following offenses:

2 (x) CLASS 4 FELONY INTERNET LURING OF A CHILD, IN VIOLATION
3 OF SECTION 18-3-306 (4), C.R.S.; OR

4 (y) INTERNET SEXUAL EXPLOITATION OF A CHILD IN VIOLATION OF
5 SECTION 18-3-405.4, C.R.S.

6 **SECTION 3.** 18-1.3-1003 (5) (a), Colorado Revised Statutes, is
7 amended BY THE ADDITION OF THE FOLLOWING NEW
8 SUB-PARAGRAPHS to read:

9 **18-1.3-1003. Definitions.** (5) (a) "Sex offense" means any of the
10 following offenses:

11 (XI) CLASS 4 FELONY INTERNET LURING OF A CHILD, IN VIOLATION
12 OF SECTION 18-3-306 (4); OR

13 (XII) INTERNET SEXUAL EXPLOITATION OF A CHILD IN VIOLATION
14 OF SECTION 18-3-405.4.

15 **SECTION 4.** Part 3 of article 3 of title 18, Colorado Revised
16 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
17 read:

18 **18-3-306. Internet luring of a child.** (1) A PERSON COMMITS
19 INTERNET LURING OF A CHILD IF THE PERSON KNOWINGLY COMMUNICATES
20 A STATEMENT OVER A COMPUTER OR COMPUTER NETWORK TO A CHILD
21 UNDER FIFTEEN YEARS OF AGE, DESCRIBING EXPLICIT SEXUAL CONDUCT AS
22 DEFINED IN SECTION 18-6-403 (2) (e), AND, IN CONNECTION WITH THE
23 COMMUNICATION, MAKES A STATEMENT PERSUADING OR INVITING THE
24 CHILD TO MEET THE PERSON FOR ANY PURPOSE, AND THE PERSON IS MORE
25 THAN FOUR YEARS OLDER THAN THE CHILD.

26 (2) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY IF THE
27 PERSON REASONABLY BELIEVED THAT HIS OR HER CONDUCT WAS

1 NECESSARY TO PROTECT THE CHILD FROM DANGER TO THE CHILD'S
2 WELFARE.

3 (3) IT SHALL NOT BE AN AFFIRMATIVE DEFENSE TO THIS SECTION
4 THAT:

5 (a) A MEETING DID NOT OCCUR; OR

6 (b) THE CHILD WAS ACTUALLY A LAW ENFORCEMENT OFFICER
7 POSING AS A CHILD UNDER FIFTEEN YEARS OF AGE.

8 (4) INTERNET LURING OF A CHILD IS A CLASS 5 FELONY; EXCEPT
9 THAT LURING OF A CHILD IS A CLASS 4 FELONY IF COMMITTED WITH THE
10 INTENT TO MEET FOR THE PURPOSE OF ENGAGING IN SEXUAL EXPLOITATION
11 AS DEFINED IN SECTION 18-6-403 OR SEXUAL CONTACT AS DEFINED IN
12 SECTION 18-3-401.

13 (5) FOR PURPOSES OF THIS SECTION, "IN CONNECTION WITH"
14 MEANS COMMUNICATIONS THAT FURTHER, ADVANCE, PROMOTE, OR HAVE
15 A CONTINUITY OF PURPOSE, AND MAY OCCUR BEFORE, DURING, OR AFTER
16 THE INVITATION TO MEET.

17 **SECTION 5.** Part 4 of article 3 of title 18, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
19 read:

20 **18-3-405.4. Internet sexual exploitation of a child.** (1) A
21 PERSON COMMITS INTERNET SEXUAL EXPLOITATION OF A CHILD IF A
22 PERSON, WHO IS AT LEAST FOUR YEARS OLDER THAN A CHILD WHO IS
23 UNDER FIFTEEN YEARS OF AGE, KNOWINGLY IMPORTUNES, INVITES, OR
24 ENTICES THE CHILD THROUGH COMMUNICATION VIA A COMPUTER
25 NETWORK OR SYSTEM TO:

26 (a) EXPOSE OR TOUCH THE CHILD'S OWN OR ANOTHER PERSON'S
27 INTIMATE PARTS WHILE COMMUNICATING WITH THE PERSON VIA A

1 COMPUTER NETWORK OR SYSTEM; OR

2 (b) OBSERVE THE PERSON'S INTIMATE PARTS WHILE
3 COMMUNICATING WITH THE PERSON VIA A COMPUTER NETWORK OR
4 SYSTEM.

5 (2) IT SHALL NOT BE AN AFFIRMATIVE DEFENSE TO THIS SECTION
6 THAT THE CHILD WAS ACTUALLY A LAW ENFORCEMENT OFFICER POSING AS
7 A CHILD UNDER FIFTEEN YEARS OF AGE.

8 (3) INTERNET SEXUAL EXPLOITATION OF A CHILD IS A CLASS 4
9 FELONY.

10 **SECTION 6.** The introductory portion to 18-3-407 (2), Colorado
11 Revised Statutes, is amended to read:

12 **18-3-407. Victim's and witness's prior history - evidentiary**
13 **hearing - victim's identity - protective order.** (2) In any criminal
14 prosecution FOR CLASS 4 FELONY INTERNET LURING OF A CHILD, AS
15 DESCRIBED IN SECTION 18-3-306 (4) OR under sections 18-3-402 to
16 18-3-405.5, 18-6-301, 18-6-302, 18-6-403, and 18-6-404, or for attempt
17 or conspiracy to commit any ~~crime under sections 18-3-402 to~~
18 ~~18-3-405.5, 18-6-301, 18-6-302, 18-6-403, and 18-6-404~~ OF SAID CRIMES,
19 if evidence, that is not excepted under subsection (1) of this section, of
20 specific instances of the victim's or a witness's prior or subsequent sexual
21 conduct, or opinion evidence of the victim's or a witness's sexual conduct,
22 or reputation evidence of the victim's or a witness's sexual conduct, or
23 evidence that the victim or a witness has a history of false reporting of
24 sexual assaults is to be offered at trial, the following procedure shall be
25 followed:

26 **SECTION 7.** 18-6-403 (5), Colorado Revised Statutes, is
27 amended to read:

1 **18-6-403. Sexual exploitation of children.** (5) The sexual
2 exploitation of a child is a class 3 felony; except that sexual exploitation
3 of a child by possession of sexually exploitative material pursuant to
4 paragraph (b.5) of subsection (3) of this section is a class 1 misdemeanor,
5 but a second or subsequent offense by such possession OR A FIRST OR
6 SUBSEQUENT OFFENSE OF POSSESSION OF MORE THAN TWENTY DIFFERENT
7 ITEMS QUALIFYING AS SEXUALLY EXPLOITATIVE MATERIAL is a class 4
8 felony.

9 **SECTION 8.** 18-3-411 (1), Colorado Revised Statutes, is
10 amended to read:

11 **18-3-411. Sex offenses against children - unlawful sexual**
12 **offense defined - limitation for commencing proceedings - evidence**
13 **- statutory privilege.** (1) As used in this section, "unlawful sexual
14 offense" means enticement of a child, as described in section 18-3-305,
15 sexual assault, as described in section 18-3-402, when the victim at the
16 time of the commission of the act is a child less than fifteen years of age,
17 sexual assault in the first degree, as described in section 18-3-402, as it
18 existed prior to July 1, 2000, when the victim at the time of the
19 commission of the act is a child less than fifteen years of age; sexual
20 assault in the second degree, as described in section 18-3-403 (1) (a), (1)
21 (b), (1) (c), (1) (d), (1) (g), or (1) (h), as it existed prior to July 1, 2000,
22 when the victim at the time of the commission of the act is a child less
23 than fifteen years of age, or as described in section 18-3-403 (1) (e), as it
24 existed prior to July 1, 2000, when the victim is less than fifteen years of
25 age and the actor is at least four years older than the victim; unlawful
26 sexual contact, as described in section 18-3-404 (1) (a), (1) (b), (1) (c), (1)
27 (d), (1) (f), or (1) (g), when the victim at the time of the commission of

1 the act is a child less than fifteen years of age; sexual assault in the third
2 degree, as described in section 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d),
3 (1) (f), or (1) (g), as it existed prior to July 1, 2000, when the victim at the
4 time of the commission of the act is a child less than fifteen years of age;
5 sexual assault on a child, as described in section 18-3-405; sexual assault
6 on a child by one in a position of trust, as described in section 18-3-405.3;
7 aggravated incest, as described in section 18-6-302; trafficking in
8 children, as described in section 18-6-402; sexual exploitation of a child,
9 as described in section 18-6-403; procurement of a child for sexual
10 exploitation, as described in section 18-6-404; indecent exposure, as
11 described in section 18-7-302, soliciting for child prostitution, as
12 described in section 18-7-402; pandering of a child, as described in
13 section 18-7-403; procurement of a child, as described in section
14 18-7-403.5; keeping a place of child prostitution, as described in section
15 18-7-404; pimping of a child, as described in section 18-7-405;
16 inducement of child prostitution, as described in section 18-7-405.5;
17 patronizing a prostituted child, as described in section 18-7-406; CLASS
18 4 FELONY INTERNET LURING OF A CHILD, AS DESCRIBED IN SECTION
19 18-3-306(4); INTERNET SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED
20 IN SECTION 18-3-405.4; or criminal attempt, conspiracy, or solicitation to
21 commit any of the acts specified in this subsection (1).

22 **SECTION 9.** Part 1 of article 1 of title 17, Colorado Revised
23 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
24 read:

25 **17-1-153. Appropriation to comply with section 2-2-703.**
26 (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY
27 APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE

1 MADE IN ORDER TO IMPLEMENT H.B. 06-1011, ENACTED AT THE SECOND
2 REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY:

3 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION
4 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM
5 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
6 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
7 SECTION 17-1-116, THE SUM OF FIVE HUNDRED TWENTY-THREE THOUSAND
8 ONE HUNDRED SIXTY-FOUR DOLLARS (\$523,164).

9 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN
10 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
11 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
12 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
13 FUND CREATED IN SECTION 17-1-116, THE SUM OF FIVE HUNDRED
14 TWENTY-THREE THOUSAND ONE HUNDRED SIXTY-FOUR DOLLARS
15 (\$523,164).

16 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, IN ADDITION
17 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
18 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
19 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED SIXTY
20 THOUSAND EIGHT HUNDRED SEVENTY-EIGHT DOLLARS (\$160,878).

21 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, IN ADDITION
22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
23 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
24 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
25 SECTION 17-1-116, THE SUM OF FIVE HUNDRED TWENTY-THREE THOUSAND
26 ONE HUNDRED SIXTY-FOUR DOLLARS (\$523,164).

27 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, IN ADDITION

1 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
2 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
3 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF THREE HUNDRED
4 TWENTY-ONE THOUSAND SEVEN HUNDRED FIFTY-SIX DOLLARS (\$321,756).

5 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, IN
6 ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY
7 APPROPRIATED, FROM THE CAPITAL CONSTRUCTION FUND CREATED IN
8 SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE
9 FUND CREATED IN SECTION 17-1-116, THE SUM OF FIVE HUNDRED
10 TWENTY-THREE THOUSAND ONE HUNDRED SIXTY-FOUR DOLLARS
11 (\$523,164).

12 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2009, IN ADDITION
13 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
14 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
15 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF FOUR HUNDRED
16 EIGHTY-TWO THOUSAND SIX HUNDRED THIRTY-FOUR DOLLARS (\$482,634).

17 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
18 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
19 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302,
20 C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN
21 SECTION 17-1-116, THE SUM OF FIVE HUNDRED TWENTY-THREE THOUSAND
22 ONE HUNDRED SIXTY-FOUR DOLLARS (\$523,164).

23 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2010, IN ADDITION
24 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
25 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
26 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF SIX HUNDRED
27 FORTY-THREE THOUSAND FIVE HUNDRED TWELVE DOLLARS (\$643,512).

1 **SECTION 10.** The introductory portion to 24-75-302 (2) and
2 24-75-302 (2) (s), (2) (t), and (2) (u), Colorado Revised Statutes, are
3 amended, and the said 24-75-302 (2) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

5 **24-75-302. Capital construction fund - capital assessment fees**
6 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
7 through July 1, ~~2009~~ 2010, a sum as specified in this subsection (2) shall
8 accrue to the capital construction fund. The state treasurer and the
9 controller shall transfer such sum out of the general fund and into the
10 capital construction fund as moneys become available in the general fund
11 during the fiscal year beginning on said July 1. Transfers between funds
12 pursuant to this subsection (2) shall not be deemed to be appropriations
13 subject to the limitations of section 24-75-201.1. The amount which shall
14 accrue pursuant to this subsection (2) shall be as follows:

15 (s) On July 1, 2006, twenty-two thousand nine hundred
16 twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the
17 third extraordinary session of the sixty-third general assembly; plus two
18 hundred ninety-one thousand seven hundred sixty-one dollars pursuant to
19 H.B. 03-1004, enacted at the first regular session of the sixty-fourth
20 general assembly; plus one hundred twenty-five thousand forty-one
21 dollars pursuant to H.B. 03-1138, enacted at the first regular session of
22 the sixty-fourth general assembly; plus sixty-nine thousand four hundred
23 sixty-seven dollars pursuant to H.B. 03-1213, enacted at the first regular
24 session of the sixty-fourth general assembly; plus sixty-nine thousand
25 four hundred sixty-seven dollars pursuant to H.B. 03-1317, enacted at the
26 first regular session of the sixty-fourth general assembly; plus ninety
27 thousand three hundred seven dollars pursuant to H.B. 04-1021, enacted

1 at the second regular session of the sixty-fourth general assembly; plus
2 sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B.
3 04-1016, enacted at the second regular session of the sixty-fourth general
4 assembly; PLUS FIVE HUNDRED TWENTY-THREE THOUSAND ONE HUNDRED
5 SIXTY-FOUR DOLLARS PURSUANT TO H.B. 06-1011, ENACTED AT THE
6 SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY;

7 (t) On July 1, 2007, four hundred sixteen thousand eight hundred
8 two dollars pursuant to H.B. 03-1004, enacted at the first regular session
9 of the sixty-fourth general assembly; plus fifty-five thousand five hundred
10 seventy-four dollars pursuant to H.B. 03-1317, enacted at the first regular
11 session of the sixty-fourth general assembly; plus thirteen thousand eight
12 hundred ninety-three dollars pursuant to H.B. 04-1021, enacted at the
13 second regular session of the sixty-fourth general assembly; PLUS FIVE
14 HUNDRED TWENTY-THREE THOUSAND ONE HUNDRED SIXTY-FOUR DOLLARS
15 PURSUANT TO H.B. 06-1011, ENACTED AT THE SECOND REGULAR SESSION
16 OF THE SIXTY-FIFTH GENERAL ASSEMBLY;

17 (u) On July 1, 2008, sixty-nine thousand four hundred sixty-seven
18 dollars pursuant to H.B. 04-1021, enacted at the second regular session
19 of the sixty-fourth general assembly; PLUS FIVE HUNDRED TWENTY-THREE
20 THOUSAND ONE HUNDRED SIXTY-FOUR DOLLARS PURSUANT TO H.B.
21 06-1011, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH
22 GENERAL ASSEMBLY;

23 (v) ON JULY 1, 2009, FIVE HUNDRED TWENTY-THREE THOUSAND
24 ONE HUNDRED SIXTY-FOUR DOLLARS PURSUANT TO H.B. 06-1011,
25 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL
26 ASSEMBLY;

27 (w) ON JULY 1, 2010, FIVE HUNDRED TWENTY-THREE THOUSAND

1 ONE HUNDRED SIXTY-FOUR DOLLARS PURSUANT TO H.B. 06-1011,
2 ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-FIFTH GENERAL
3 ASSEMBLY.

4 **SECTION 11. Appropriation.** In addition to any other
5 appropriation, there is hereby appropriated, out of any moneys in the
6 general fund not otherwise appropriated, to the judicial department, for
7 the fiscal year beginning July 1, 2006, the sum of nineteen thousand six
8 hundred eighty-two dollars (\$19,682) and 0.4 FTE, or so much thereof as
9 may be necessary, for probation and related services.

10 **SECTION 12. Effective date - applicability.** This act shall take
11 effect July 1, 2006, and shall apply to offenses committed on or after said
12 date.

13 **SECTION 13. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.