

Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 04-0667.01 Michael Dohr

HOUSE BILL 04-1170

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**HOUSE SPONSORSHIP**

**Cloer**, Schultheis, McFadyen, and Stafford

**SENATE SPONSORSHIP**

(None),

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**House Committees**

Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING THE SENTENCING OF A DEFENDANT CONVICTED OF**  
102 **SECOND DEGREE ASSAULT UNDER THE GENERAL SENTENCING**  
103 **GUIDELINES IN CERTAIN CIRCUMSTANCES.**

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**Bill Summary**

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

In certain circumstances, permits a court to sentence a defendant convicted of second degree assault pursuant to the general sentencing guidelines, rather than the mandatory sentence requirement of the crime of violence statute.

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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.*

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

2 **SECTION 1.** 18-3-203 (2) (c), Colorado Revised Statutes, is  
3 amended, and the said 18-3-203 (2) is further amended BY THE  
4 ADDITION OF A NEW PARAGRAPH, to read:

5 **18-3-203. Assault in the second degree.** (2) (c) EXCEPT AS  
6 OTHERWISE PROVIDED IN PARAGRAPH (d) OF THIS SUBSECTION (2), if a  
7 defendant is convicted of assault in the second degree pursuant to  
8 paragraph (b), (c), (d), or (g) of subsection (1) of this section or paragraph  
9 (b.5) of this subsection (2), except with respect to sexual assault or sexual  
10 assault in the first degree as it existed prior to July 1, 2000, the court shall  
11 sentence the defendant in accordance with the provisions of section  
12 18-1.3-406. A defendant convicted of assault in the second degree  
13 pursuant to paragraph (b.5) of this subsection (2) with respect to sexual  
14 assault or sexual assault in the first degree as it existed prior to July 1,  
15 2000, shall be sentenced in accordance with section 18-1.3-401 (8) (e) or  
16 (8) (e.5).

17 (d) THE COURT MAY SENTENCE THE DEFENDANT IN ACCORDANCE  
18 WITH THE PROVISIONS OF ARTICLE 1.3 OF THIS TITLE, AS IF THE OFFENSE IS  
19 NOT A CRIME OF VIOLENCE, IF THE DEFENDANT IS CONVICTED OF ASSAULT  
20 IN THE SECOND DEGREE PURSUANT TO PARAGRAPH (b), (d), OR (g) OF  
21 SUBSECTION (1) OF THIS SECTION AND THE ASSAULT WAS COMMITTED  
22 UNDER ONE OR MORE OF THE FOLLOWING CIRCUMSTANCES:

23 (I) THE VICTIM, AT THE TIME OF THE ASSAULT, WAS ON THE  
24 DEFENDANT'S PROPERTY UNLAWFULLY; OR

25 (II) THE DEFENDANT, AT THE TIME OF THE ASSAULT, ACTED UNDER  
26 THE GOOD-FAITH, BUT MISTAKEN, BELIEF IN THE NEED FOR SELF-DEFENSE  
27 OR DEFENSE OF A THIRD PERSON.

1           **SECTION 2. Effective date - applicability.** This act shall take  
2 effect July 1, 2004, and shall apply to offenses committed on or after said  
3 date.

4           **SECTION 3. Safety clause.** The general assembly hereby finds,  
5 determines, and declares that this act is necessary for the immediate  
6 preservation of the public peace, health, and safety.