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CHAPTER 167

CRIMINAL CODEREVISION OF CERTAIN STATUTES

HOUSE BILL NO. 1203, BY REPRESENTATIVES Eckelberry, Bendelow, Frank, Gustafson, Hilsmeier, Howe, Kramer, and Neale; also SENATORS Allshouse, DeBerard, McCormick, and Smedley.

AN ACT

AMENDING THE "COLORADO CRIMINAL CODE".

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

Section 1. 18-1-501 (3), (5), (6), and (8), Colorado Revised Statutes 1973, are REPEALED AND REENACTED, WITH AMENDMENTS, to read:

18-1-501. Definitions. (3) "Criminal negligence." A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

(5) "Intentionally." A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct.

(6) "Knowingly." A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists.

(8) "Recklessly." A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

Section 2. 18-1-707 (2) (b), Colorado Revised Statutes 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

18-1-707. Use of physical force in making an arrest or in preventing an escape. (2) (b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

(1) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) Is attempting to escape by the use of a deadly weapon; or

(III) Otherwise indicates except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

Section 3. 18-2-101 (4), (5), (6), and (7), Colorado Revised Statutes 1973, are amended, and the said 18-2-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-2-101. Criminal attempt. (4) Criminal attempt to commit a class 1 or class 2 felony is a class 3 2 felony; CRIMINAL ATTEMPT TO COMMIT A CLASS 2 FELONY IS A CLASS 3 FELONY; CRIMINAL ATTEMPT TO COMMIT A CLASS 3 FELONY IS A CLASS 4 FELONY; CRIMINAL ATTEMPT TO COMMIT A CLASS 4 OR 5 FELONY IS A CLASS 5 FELONY.

(5) Criminal attempt to commit a felony other than a class 1 or class 2 felony is a class 5 felony WHICH IS DEFINED BY ANY STATUTE OTHER THAN ONE CONTAINED IN THIS TITLE AND FOR WHICH NO PENALTY IS SPECIFICALLY PROVIDED IS A CLASS 5 FELONY.

(6) Criminal attempt to commit a class 1 misdemeanor is a class 3 2 misdemeanor.

(7) Criminal attempt to commit a misdemeanor other than a class 1 misdemeanor is a class 1 petty offense 3 MISDEMEANOR.

(8) Criminal attempt to commit a petty offense is a crime of the same class as the offense itself.

Section 4. 18-2-206 (1), Colorado Revised Statutes 1973, is amended, and the said 18-2-206 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-2-206. Penalties for criminal conspiracy — when convictions barred. (1) Conspiracy is a crime of the same class as the most serious offense which is an object of the conspiracy, but conspiracy to commit a class 1 felony is a class 2 felony; CONSPIRACY TO COMMIT A CLASS 1 FELONY IS A CLASS 2 FELONY; CONSPIRACY TO COMMIT A CLASS 2 FELONY IS A CLASS 3 FELONY; CONSPIRACY TO COMMIT A CLASS 3 FELONY IS A CLASS 4 FELONY; CONSPIRACY TO COMMIT A CLASS 4 OR 5 FELONY IS A CLASS 5 FELONY.

(4) Conspiracy to commit a class 1 misdemeanor is a class 2 misdemeanor.

(5) Conspiracy to commit a misdemeanor other than a class 1 misdemeanor is a class 3 misdemeanor.

(6) Conspiracy to commit a petty offense is a crime of the same class as the offense itself.

Section 5. 18-3-102 (1) (b), Colorado Revised Statutes 1973, as amended by House Bill No. 1042, enacted at the First Regular Session of the Fiftieth General Assembly and approved by the Governor on July 1, 1975, is amended to read:

18-3-102. Murder in the first degree. (1) (b) Acting either alone or with

one or more persons, he commits or attempts to commit arson, robbery, burglary, kidnapping, sexual assault in the first or second degree as prohibited by section 18-3-402 or 18-3-403, or a class 3 felony for sexual assault on a child as provided in section 18-3-405 (2) and in the course of or in furtherance of the crime that he is committing or attempting to commit, or of immediate flight therefrom, the death of a person, other than one of the participants, is caused BY ANYONE; or

Section 6. 18-3-104 (1) (c), Colorado Revised Statutes 1973, as amended by House Bill No. 1146 enacted at the First Regular Session of the Fiftieth General Assembly and approved by the Governor on March 19, 1975, is amended to read:

18-3-104. Manslaughter. (1) (c) With intent to cause the death of a person other than himself, he causes the death of that person or of another person, under circumstances where the act causing the death was performed, not after deliberation, upon a sudden heat of passion caused by a serious and highly provoking act OF THE INTENDED VICTIM, affecting the person killing sufficiently to excite an irresistible passion in a reasonable person; but if between the provocation and the killing there is an interval sufficient for the voice of reason and humanity to be heard, the killing is murder.

Section 7. 18-3-202 (1) (a), Colorado Revised Statutes 1973, is amended to read:

18-3-202. Assault in the first degree. (1) A person commits the crime of assault in the first degree if:

(a) With intent to cause serious bodily injury to another person, he causes serious BODILY injury to any person by means of a deadly weapon; or

Section 8. 18-3-207, Colorado Revised Statutes 1973, is amended to read:

18-3-207. Criminal extortion. Whoever without legal authority threatens to confine, restrain, or to cause ECONOMIC OR bodily harm to the threatened person or another or to damage the property, ECONOMIC WELL-BEING, or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an act or refrain from doing a lawful act commits criminal ~~intimidation~~ EXTORTION which is a class 4 misdemeanor 4 FELONY.

Section 9. The introductory portion to 18-4-401 (1), Colorado Revised Statutes 1973, is amended to read:

18-4-401. Theft. (1) A person commits theft when he knowingly obtains or exercises control over anything of value of another without authorization or by threat or deception, or ~~knowing said thing of value to have been stolen,~~ and:

Section 10. 18-4-401 (2) and (3), Colorado Revised Statutes 1973, are amended, and the said 18-4-401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-4-401. Theft. (2) Where the value of the thing involved is one TWO hundred dollars or more, theft is a class 4 felony.

(3) Where the value of the thing involved is FIFTY DOLLARS OR

MORE AND less than ~~one~~ TWO hundred dollars, theft is a class 3 2 misdemeanor.

(3.1) Where the value of the thing involved is less than fifty dollars, theft is a class 1 petty offense.

Section 11. 18-4-402 (2) and (3), Colorado Revised Statutes 1973, are amended, and the said 18-4-402 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-4-402. Theft of rental property. (2) Theft of rental property is a class 3 ~~misdemeanor~~ 1 PETTY OFFENSE where the value of the property involved is less than ~~one hundred~~ FIFTY dollars.

(3) Theft of rental property is a class 5 ~~felony~~ 2 MISDEMEANOR where the value of the property involved is ~~one hundred~~ FIFTY dollars or more AND IS LESS THAN TWO HUNDRED DOLLARS.

(4) Theft of rental property is a class 4 felony where the value of the property involved is more than two hundred dollars.

Section 12. Part 4 of article 4 of title 18, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

18-4-410. Theft by receiving. (1) A person commits theft by receiving when he receives, retains, loans money by pawn or pledge on, or disposes of anything of value of another knowing or believing or having reasonable cause to believe that said thing of value has been stolen and intends to deprive the lawful owner permanently of the use or benefit of the thing of value.

(2) Where the value of the thing involved is two hundred dollars or more, theft by receiving is a class 4 felony.

(3) Where the value of the thing involved is fifty dollars or more and less than two hundred dollars, theft by receiving is a class 2 misdemeanor.

(4) Where the value of the thing involved is less than fifty dollars, theft by receiving is a class 1 petty offense.

Section 13. 18-5-205 (3), Colorado Revised Statutes 1973, is amended to read:

18-5-205. Fraud by check — definitions — penalties. (3) Fraud by check is:

(a) A class 2 ~~misdemeanor~~ 1 PETTY OFFENSE if the FRAUDULENT check was in the sum of less than ~~one hundred~~ FIFTY dollars;

(b) A class 5 ~~felony~~ 2 MISDEMEANOR if the fraudulent check was for the sum of ~~one hundred~~ FIFTY dollars or more AND LESS THAN TWO HUNDRED DOLLARS or if the offender is convicted of fraud by check involving two or more checks within any thirty-day period in the state of Colorado totaling ~~one hundred~~ FIFTY dollars or more AND LESS THAN TWO HUNDRED DOLLARS in the aggregate;

(c) A class 4 felony IF THE FRAUDULENT CHECK WAS FOR THE SUM OF TWO HUNDRED DOLLARS OR MORE OR IF THE OFFENDER IS CONVICTED OF FRAUD BY CHECK INVOLVING TWO

OR MORE CHECKS WITHIN ANY THIRTY-DAY PERIOD IN THE STATE OF COLORADO TOTALING TWO HUNDRED DOLLARS OR MORE IN THE AGGREGATE, OR if the offender has been twice previously convicted under this section or a former statute of this state of similar content and purport.

Section 14. 18-5-206, Colorado Revised Statutes 1973, is amended to read:

18-5-206. Defrauding a secured creditor or debtor. (1) If a person, with intent to defraud a creditor by defeating, impairing, or rendering worthless or unenforceable any security interest, sells, assigns, transfers, conveys, pledges, encumbers, conceals, destroys, or disposes of any collateral subject to a security interest, he commits a class 2 misdemeanor 1 PETTY OFFENSE if the value of the collateral is less than one hundred FIFTY dollars. If the value of the collateral is one hundred FIFTY dollars or more AND LESS THAN TWO HUNDRED DOLLARS, he commits a class 5 felony 2 MISDEMEANOR. IF THE VALUE OF THE COLLATERAL IS TWO HUNDRED DOLLARS OR MORE, HE COMMITS A CLASS 4 FELONY.

(2) If a creditor with intent to defraud a debtor sells, assigns, transfers, conveys, pledges, buys, or encumbers a promissory note or contract signed by the debtor, he commits a class 2 misdemeanor 1 PETTY OFFENSE if the amount owing on the note or contract is less than one hundred FIFTY dollars. If the amount owing on such note or contract is one hundred FIFTY dollars or more AND LESS THAN TWO HUNDRED DOLLARS, he commits a class 5 felony 2 MISDEMEANOR. IF THE VALUE OF THE COLLATERAL IS TWO HUNDRED DOLLARS OR MORE, HE COMMITS A CLASS 4 FELONY.

Section 15. 18-6-401 (7), Colorado Revised Statutes 1973, is amended, and the said 18-6-401 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-6-401. Child abuse. (7) Child abuse is a class 2 misdemeanor, but if it results in serious bodily injury to the child, it is a class 5 3 felony.

(8) If a child is the victim of any alleged crime, any department of welfare or any employee of such department having information about such child shall promptly furnish, at the request of the district attorney or other appropriate law enforcement official in the jurisdiction in which the crime occurred, to the juvenile court or the district court with juvenile jurisdiction, all records and information relating to such child which are then within the custody or control of such department of social services or employee thereof. The court shall conduct an in camera hearing to determine which records and information, if any, are relevant to the investigation of the district attorney or the law enforcement official. Notwithstanding any other provision of law to the contrary, all records and information relating to such child shall be furnished to the juvenile court or the district court with juvenile jurisdiction.

Section 16. Article 9 of title 18, Colorado Revised Statutes 1973, is amended BY THE ADDITION OF A NEW SECTION to read:

18-9-116.5. Vehicular eluding. Any person who, while operating a motor vehicle, knowingly eludes or attempts to elude a peace officer also operating

a motor vehicle, and who knows or reasonably should know that he is being pursued by said peace officer, and who operates his vehicle in a reckless manner, creating a substantial risk of bodily injury to another person, commits vehicular eluding. Vehicular eluding is a class 1 misdemeanor, but vehicular eluding which results in bodily injury to another person is a class 4 felony.

Section 17. 18-12-108, Colorado Revised Statutes 1973, is amended to read:

18-12-108. Possession of weapons by previous offenders. Any person previously convicted of burglary, arson, or a felony involving the use of force or violence or the use of a deadly weapon, or attempt or conspiracy to commit such offenses, under the laws of the United States of America, the state of Colorado, or another state, within the ten years next preceding or within ten years of his release OR ESCAPE from incarceration, whichever is greater, who shall possess, use, or carry POSSESSES, USES, OR CARRIES upon his person a firearm or other weapon mentioned in section 18-1-901 (3) (h) or sections 18-12-101 to 18-12-106 commits a class 5 felony. A second or subsequent offense under this section is a class 4 felony.

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

Approved: July 21, 1975