

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 14-0311.02 Michael Dohr x4347

HOUSE BILL 14-1260

HOUSE SPONSORSHIP

Foote,

SENATE SPONSORSHIP

Johnston,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THREE MANDATORY MINIMUM**
102 **PRESUMPTIVE RANGES FOR DEFENDANTS CONVICTED OF A**
103 **FELONY SEX OFFENSE INVOLVING INTRUSION AGAINST A CHILD**
104 **WHO IS UNDER TWELVE YEARS OF AGE WHEN THE ADULT**
105 **DEFENDANT IS AT LEAST TEN YEARS OLDER THAT HAS ONE OF**
106 **THE RANGES STARTING AT TEN YEARS AS THE MINIMUM IN THE**
107 **RANGE, AND, IN CONNECTION THEREWITH, CREATING AN**
108 **INDETERMINATE LIFETIME SENTENCE WITH A MANDATORY**
109 **MINIMUM PRESUMPTIVE RANGE OF TEN TO SIXTEEN YEARS FOR**
110 **A CLASS 4 FELONY; A MANDATORY MINIMUM PRESUMPTIVE**
111 **RANGE OF EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3**
112 **FELONY; AND A MANDATORY MINIMUM PRESUMPTIVE RANGE OF**

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.

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>.)

The bill requires a court to impose a sentence within an indeterminate minimum presumptive range to a maximum of the offender's life upon an adult offender if he or she commits a class 2, class 3, or class 4 felony sexual assault that includes intrusion or penetration against a child who is under 12 years of age at the time of the offense and the offender is at least 10 years older than the child. For a class 2 felony the presumptive range is 24 to 48 years, for a class 3 felony it is 18 to 32 years, and for a class 4 felony it is 10 to 16 years.

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

2 **SECTION 1. Legislative declaration.** (1) The General
3 Assembly hereby finds and declares that:

4 (a) More than forty states in the United States have passed laws
5 that are similar to Florida's House Bill 2005-1877, the Jessica Lunsford
6 Act, which is commonly referred to as "Jessica's Law";

7 (b) When the Colorado General Assembly adopts House Bill
8 14-1260 and it becomes law, it will make Colorado one of the states that
9 have adopted a law that is similar to "Jessica's Law".

10 **SECTION 2.** In Colorado Revised Statutes, 18-1.3-1004, **amend**
11 (2) (a); and **add** (1) (e) as follows:

12 **18-1.3-1004. Indeterminate sentence.** (1) (e) (I)
13 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DISTRICT COURT
14 SHALL SENTENCE A SEX OFFENDER TO THE CUSTODY OF THE DEPARTMENT
15 FOR AN INDETERMINATE TERM AS SPECIFIED IN SUBPARAGRAPH (II) OF THIS

1 PARAGRAPH (e) IF THE SEX OFFENDER:

2 (A) COMMITTED A CLASS 2, CLASS 3, OR CLASS 4 SEX OFFENSE IN
3 VIOLATION OF SECTION 18-3-402, 18-3-405, OR 18-3-405.3 WHEN THE ACT
4 INCLUDES SEXUAL INTRUSION AS DEFINED IN SECTION 18-3-401 (5) OR
5 SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401 (6);

6 (B) COMMITTED THE ACT AGAINST A CHILD WHO WAS UNDER
7 TWELVE YEARS OF AGE AT THE TIME OF THE OFFENSE; AND

8 (C) WAS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TEN
9 YEARS OLDER THAN THE CHILD.

10 (II) THE DISTRICT COURT SHALL SENTENCE A SEX OFFENDER TO
11 THE DEPARTMENT OF CORRECTIONS FOR AN INDETERMINATE TERM OF
12 INCARCERATION OF:

13 (A) AT LEAST TEN TO SIXTEEN YEARS FOR A CLASS 4 FELONY TO A
14 MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN THIS
15 SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e);

17 (B) AT LEAST EIGHTEEN TO THIRTY-TWO YEARS FOR A CLASS 3
18 FELONY TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED IN
19 THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED IN
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH (e); AND

21 (C) AT LEAST TWENTY-FOUR TO FORTY-EIGHT YEARS FOR A CLASS
22 2 FELONY, TO A MAXIMUM OF THE PERSON'S NATURAL LIFE, AS PROVIDED
23 IN THIS SUBSECTION (1), IF HE OR SHE COMMITTED A CRIME AS DESCRIBED
24 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).

25 (2) (a) The district court having jurisdiction, based on
26 consideration of the evaluation conducted pursuant to section
27 16-11.7-104, C.R.S., and the factors specified in section 18-1.3-203, may

1 sentence a sex offender to probation for an indeterminate period of at
2 least ten years for a class 4 felony or twenty years for a class 2 or 3 felony
3 and a maximum of the sex offender's natural life; except that, if the sex
4 offender committed a sex offense that constitutes a crime of violence, as
5 defined in section 18-1.3-406, or committed a sex offense that makes him
6 or her eligible for sentencing as a habitual sex offender against children
7 pursuant to section 18-3-412, OR A SEX OFFENSE REQUIRING SENTENCING
8 PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION, the
9 court shall sentence the sex offender to the department of corrections as
10 provided in subsection (1) of this section. For any sex offender sentenced
11 to probation pursuant to this subsection (2), the court shall order that the
12 sex offender, as a condition of probation, participate in an intensive
13 supervision probation program established pursuant to section
14 18-1.3-1007, until further order of the court.

15 **SECTION 3. Potential appropriation.** Pursuant to section
16 2-2-703, Colorado Revised Statutes, any bill that results in a net increase
17 in periods of imprisonment in the state correctional facilities must include
18 an appropriation of moneys that is sufficient to cover any increased
19 capital construction and operational costs for the first five fiscal years in
20 which there is a fiscal impact. Because this act may increase periods of
21 imprisonment, this act may require a five-year appropriation.

22 **SECTION 4. Effective date - applicability.** This act takes effect
23 July 1, 2014, and applies to offenses committed on or after said date.

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