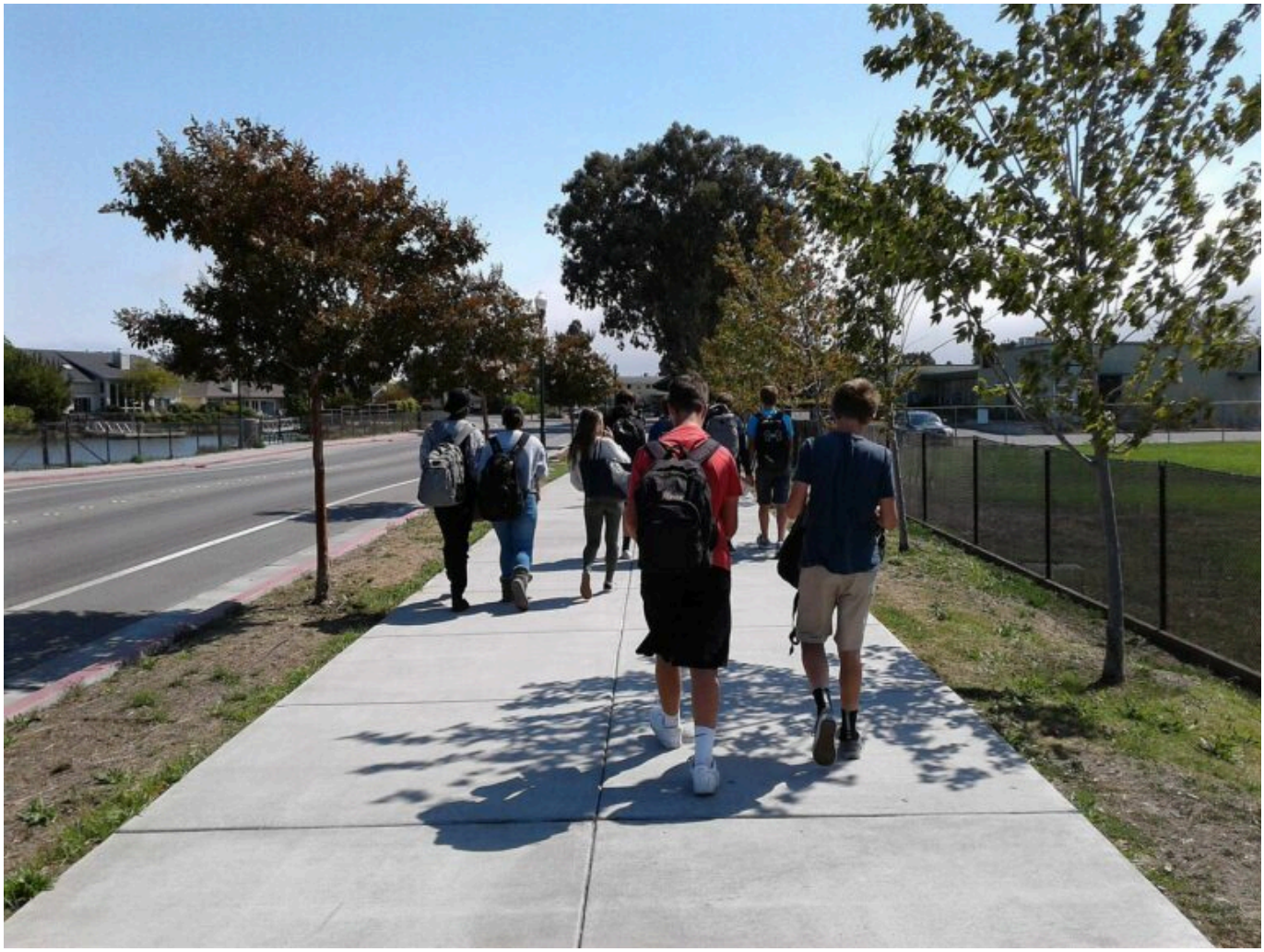
Felony status for indecent exposure in front of children passes Colorado legislature

By **Hannah Metzger** 05/06/2023 | updated 3 years ago



Indecent exposure is the only child sex crime in Colorado classified as a misdemeanor, instead of a felony. But that will soon change if Gov. Jared Polis signs a new bill into law.

House Bill 1135 would make it a felony crime if a person over the age of 18 exposes or touches their genitals for sexual gratification while they know they are in the view of a person under the age of 15. Under current law, an offender must commit indecent exposure three times before they are charged with a class 6 felony.

The bill passed its last vote in the state legislature on Saturday.

“We are here to protect children,” said bill sponsor Rep. Shannon Bird, D-Westminster. “If an adult does the same behavior to a child online, that’s already a

felony. Yet, when an adult has a child in person, somehow that's only a misdemeanor. That's not right. It's inconsistent and it's unjust."

The Senate unanimously approved HB 1135 without discussion on Saturday, but the bill did not clear the House so easily. Late week, House lawmakers passed the bill in a relatively close 37-27 vote, following hours of debate and filibustering.

The bill – sponsored by three Democrats and one Republican – received bipartisan support, but was only opposed by Democrats. In the House, 27 Democrats voted against the bill and only 18 voted in favor of it.

Critics argued that the bill would disproportionately harm people with mental or behavioral health disorders. Advocates with Mental Health Colorado said people who experience mania and psychosis, particularly homeless people, often take their clothes off in public spaces.

Rep. Mary Young, a psychologist, spoke of working with a 17-year-old with autism who frequently undressed in public, including on playgrounds.

"Unfortunately, many times when you have an untreated serious mental illness, you express over-sexualized behavior, because that is a symptom," said Young, D-Greeley, while voting against the bill. "Too often we are inadvertently criminalizing those with serious mental illness and neurodevelopmental issues."

Opponents tried three times to limit the scope of the bill to only make indecent exposure in front of children a felony if it occurs in an isolated place with no other adults around. They argued this would address offenders, such as groomers and family members, while sparing people who are homeless or who have a mental health crisis in public. Those proposed amendments were rejected by lawmakers on the House floor and in committee.

Proponents of the bill said the felony classification requires the offender to knowingly expose themselves in front of a child for sexual gratification, arguing that this would disqualify the bulk of incidents involving people with mental health issues. They also emphasized the frequency of these acts by knowing, intentional, repeat offenders.

In the past four years, 90 cases of indecent exposure in front of children have been filed statewide, according to the Colorado District Attorneys' Council. The average

age of the child victims is 11 year old. These numbers are also low estimates, as child victims are significantly less likely to report the crimes.

During a public hearing on HB 1135, Tyler Bandemer said his two daughters, ages 14 and 16, were sitting in a parking lot eating a snack after school when a strange man drove up to them. The man raised his pelvis to his window and exposed his genitals to the girls, masturbating in front of them.

The man was immediately apprehended by police, who were in the area for an unrelated incident. But after issuing him a summons, the man was released within 15 minutes, before Bandemer could even make it to the scene.

“This guy just exposed himself to two minors and he’s driving down the street now,” Bandemer said while testifying in support of the bill. “People should not just be able to go on their merry way. … It’s just a matter of time before they do it again.”

Before the offender was even sentenced, he was caught masturbating in front of minors again, this time targeting two teen girls working in a drive-thru, said District Attorney Gordon McLaughlin, who represents the Larimer County district where the incidents occurred in 2020.

During the hearing, many district attorneys and parents of victims detailed similar incidents: Extended family members exposing themselves to young relatives; a man caught masturbating in front of children at a playground in Denver, and then in Adams County two months later; and, a person committing multiple offenses in one day, searching the stairwells and windows of apartment complexes for child victims.

Bill sponsor Bird said one of her constituents came to her with their own experience. Bird said a mother and her 7-year-old daughter were shopping in a Westminster Walmart when a man followed the child through the aisles, masturbating behind her. Police later discovered that the man had victimized another young girl in the store earlier that same day.

Bird said the 7-year-old girl suffers from night terrors over the incident, having to go to counseling, sleep with her parents and avoid even driving by the Walmart because of the emotional trauma she’s suffered.

“Should we have to wait for three children to be victimized before we recognize the severity of this behavior? No,” Bird said during the hearing. “Our state has a responsibility to stop people from harming others and, importantly, to hold people appropriately accountable for their actions when they hurt someone else.”

By upgrading the crime to a class 6 felony instead of a class 1 misdemeanor, the penalty raises from up to 364 days in jail and/or a fine of up to $1,000, to up to 18 months in prison and/or a fine of up to $100,000.

District attorneys said the felony classification would also mean the offender would get more intensive supervision during probation, there would be more resources dedicated to investigations, and there would be more resources for the treatment of victims.

However, opponents of the bill said the felony status would, in many ways, make it more difficult for offenders to be rehabilitated.

Felony sex offenders are barred from housing assistance programs, can’t seal their records, have their photos on the state’s sex offender registration website and can’t request to be removed from the registry for an additional five years compared to misdemeanor offenders, according to the Colorado Office of the State Public Defender.

“The penalty for the misdemeanor crime is at least 10 years of registering on the sex offender registry,” said Rep. Judy Amabile, D-Boulder, who voted against the bill. “That means you can’t live in most places, you cannot live in any kind of public housing and you cannot work. These are dire consequences that are already part of the statute.”

Rep. Elisabeth Epps, D-Denver, argued that the misdemeanor penalties are already harsh enough. She said increased criminal penalties will not prevent these kinds of crimes or make children any safer.

Epps single-handedly filibustered the bill for around 3 1/5 hours during the House floor debate, speaking about her opposition at length to delay the vote and encourage lawmakers to pass the failed amendments. Epps has described herself

as a prison abolitionist, a movement seeking to ultimately eliminate imprisonment and policing, and instead offer alternatives to punishing people for crimes.

“This isn’t going to be the year that increasing a criminal penalty keeps us safer,” Epps said. “We’re defending a wildly naive belief in a system that has done a terrible job of keeping victims safe, of preventing harm. … (HB) 1135 is not a reflection of the direction that Colorado needs to go.”

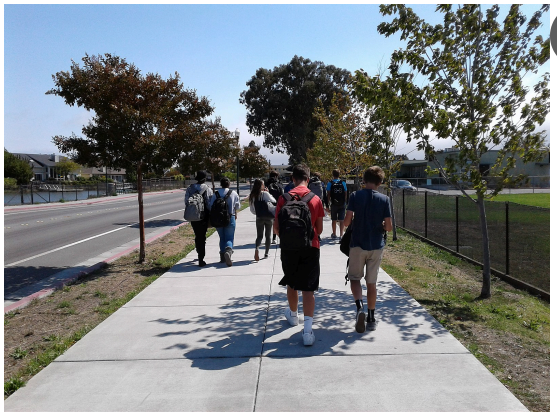
Proponents countered that making the crime a felony is intended to send a moral message that this behavior will not be tolerated – a message intended for victims, as well as perpetrators.

Rep. Brandi Bradley, R-Littleton, said when she was 10 years old, she was at a church playing with her sister when a truck pulled into the parking lot and the driver called Bradley over. She said the driver held her hand on the windowsill and gratified himself in front of her.

Through tears, Bradley said she is “sick of talking about what penalties do” for rehabilitating offenders, instead emphasizing the impact the crimes have on victims.

“I was so ashamed of what I saw and what I experienced that I never even told my parents,” Bradley said. “I’ve lived with shame for 37 years to the point where I just, as a 47-year-old, told my mom. … I should’ve been protected and I am here to protect the rest of the community from people like that.”

The bill will be sent to Polis in the coming days. If signed, it will take effect immediately.



back to school

Photo by Nipponeselover courtesy of Wikimedia Commons

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Hannah Metzger
Reporter



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Michael Karlik michael.karlik@coloradopolitics.com

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Marianne Goodland marianne.goodland@coloradopolitics.com Updated 4 hours ago

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Washington Examiner Staff washington-examiner-staff@coloradopolitics.com Updated 11 hours ago

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