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Legislature passes bill that makes certain instances of indecent exposure felonies

By **MITCHELL BYARS** | byarsm@dailycamera.com | Boulder Daily Camera

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The Colorado Legislature passed a bill that will make indecent exposure in the presence of young children for sexual purposes a felony.

House Bill 23-1135, which is awaiting Gov. Jared Polis' signature, makes indecent exposure a Class 6 felony rather than a misdemeanor when "the person who commits indecent exposure knew there was a child under 15 years of age in view of the act and the person is more than 18 years of age and more than four years older than the child."

The bill, sponsored by three Democrats and a Republican, was heavily backed by Boulder County District Attorney Michael Dougherty's office.

"District Attorney Dougherty, and DAs from around the state, fought to improve this law," the Boulder County District Attorney's Office said in a

Dougherty, who testified in favor of the bill, said the average age of Colorado indecent exposure victims over the past four years was only 11.

“It is worth noting that current law classifies this conduct as a felony offense when done over a computer,” Dougherty said. “Doing it in person is just as concerning, if not more so.”

Dougherty said advocacy groups including the Colorado Organization for Victim Assistance also backed the bill.

“We fought for this change because it will better protect kids who are targeted by people who are intent on sexually arousing themselves with minors,” Dougherty said. “Acts of sexual abuse have a mental health impact on children. The felony charge and sentencing range reflects the seriousness of the offense and, at the same time, will provide for more intensive supervision and treatment requirements for offenders.”

Class 6 felonies in Colorado can be punished by fines of $1,000 to $100,000 and 12 to 18 months in prison.

Some House Democrats did oppose the bill over concerns that it would be used to target the transgender community.

“These types of laws have been used to ban drag shows, to target individuals who use the restroom — the sex they identify with, a public restroom — to charge them with felony charges,” Rep. Leslie Herod of Denver said during a discussion of the bill. “I’m very concerned about the attacks against the transgender community that are happening across the country.”

But Dougherty said the new felony charge would only apply to offenders preying on children.

“This bill focused on adults who knowingly expose themselves with sexual intent in front of a child under 15 years old,” Dougherty said. “Previously, it had only been a misdemeanor charge for a man who masturbates in front of a child in a public place, such as (a) park or public library. The law has not, and will not, apply to showering, urinating or theater performances.

“But for the guy who masturbates in a park while looking directly at kids, that conduct should be a felony – and now it will be.”

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