

Document: C.R.S. 18-1-703

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Colorado Revised Statutes Annotated Title 18. Criminal Code (Arts. 1 – 26) Article 1. Provisions Applicable to Offenses Generally (Pts. 1 – 11) Part 7. Justification and Exemptions from Criminal Responsibility (§§ 18-1-701 – 18-1-714)

18-1-703. Use of physical force - special relationships.

(1) The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(a) A parent, guardian, or other person entrusted with the care and supervision of a minor or an incompetent person, and a teacher or other person entrusted with the care and supervision of a minor, may use reasonable and appropriate physical force upon the minor or incompetent person when and to the extent it is reasonably necessary and appropriate to maintain discipline or promote the welfare of the minor or incompetent person.

(b) A superintendent or other authorized official of a jail, prison, or correctional institution may, in order to maintain order and discipline, use objectively reasonable and appropriate physical force when and to the extent that he or she reasonably believes it necessary to maintain order and discipline, but he or she may use deadly physical force only when he or she objectively reasonably believes the inmate poses an immediate threat to the person using deadly force or another person.

(c) A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use reasonable and appropriate physical force when and to the extent that it is necessary to maintain order and discipline, but he may use deadly physical force only when it is reasonably necessary to prevent death or serious bodily injury.

(d) A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use reasonable and appropriate physical force upon that person to the extent that it is reasonably necessary to thwart the result.

(e) A duly licensed physician, advanced practice nurse, or a person acting under his or her direction, may use reasonable and appropriate physical force for the purpose of administering a recognized form of

treatment that he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if:

(I) The treatment is administered with the consent of the patient, or if the patient is a minor or an incompetent person, with the consent of his parent, guardian, or other person entrusted with his care and supervision; or

(II) The treatment is administered in an emergency when the physician or advanced practice nurse reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent.

History

Source: L. 71:R&RE, p. 408, § 1. **C.R.S. 1963:**§ 40-1-803. **L. 76:**(1)(b) amended, p. 534, § 15, effective April 9. **L. 81:**(1)(b) to (1)(d) amended, p. 980, § 2, effective May 13. **L. 2008:**IP(1)(e) and (1)(e)(II) amended, p. 128, § 8, effective January 1, 2009. **L. 2020:**IP(1) and (1)(b) amended,(SB 20-217), ch. 110, p. 453, § 4, effective September 1.

▼ Annotations

Research References & Practice Aids

Hierarchy Notes:

C.R.S. Title 18

C.R.S. Title 18, Art. 1

State Notes

ANNOTATION

Parental privilege is common-law principle codified.

The parental privilege set out in subsection (1)(a) and the definition of criminal child abuse in § 18-

6-401 codify common-law principles concerning the limits of permissible parental chastisement. *People v. Jennings*, 641 P.2d 276 (Colo. 1982).

At common law, so long as the chastisement was moderate and reasonable in light of the child's age and condition, the misconduct being punished, the kind of punishment inflicted, the degree of harm done to the child and other relevant circumstances, the parent or custodian would incur neither civil nor criminal liability, even though identical behavior against a stranger would be grounds for an action in tort or prosecution for assault and battery or a similar offense. *People v. Jennings*, 641 P.2d 276 (Colo. 1982).

Prosecution must establish guilt of child abuse defendant beyond reasonable doubt.

Where in a prosecution for child abuse the evidence raises the affirmative defense of justified physical force for disciplinary purposes, the prosecution must establish the guilt of the defendant beyond a reasonable doubt as to that issue as well as all other elements of the offense. *People v. Taggart*, 621 P.2d 1375 (Colo. 1981).

Acts similar in character admissible to negate claim of justification.

Where all the prior acts of child abuse the prosecution sought to introduce into evidence were committed against the same person, each act was occasioned by normal childhood behavior on the part of the victim, each act was similar in severity in that noticeable bruises and marks were left on the child's body, each act took place while the child's mother was absent, and, finally, each act was followed by the defendant's explanation that it was for disciplinary purposes, the acts were sufficiently similar in character to be admissible for purposes of establishing criminal culpability and of negating any claim of accident or justification. *People v. Taggart*, 621 P.2d 1375 (Colo. 1981).

Where statutory affirmative defense of reasonable and appropriate discipline

was not raised by defense, failure to include the phrase "without justifiable excuse" in a jury instruction on crime of child abuse was not error. *People v. Lybarger*, 700 P.2d 910 (Colo. 1985).

Applied

in *People v. R.V.*, 43 Colo. App. 349, 606 P.2d 1311 (1979).

Research References & Practice Aids

Cross references:

(1) For the justified use of weapons or other aid to enforce obedience at state correctional facilities, see § 17-20-122; for the use of force in preventing escape from a detention facility, see § 18-1-707 (8); for provisions concerning child abuse, see §§ 18-6-401 and 19-3-102 and part 3 of article 3 of title 19; for the use of force in administering medication to persons with mental illness, see § 27-65-111 (5).

(2) For the legislative declaration in SB 20-217, see section 1 of chapter 110, Session Laws of Colorado 2020.

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