

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 01-0327.02 Julie Pelegrin

SENATE BILL 01-210

SENATE SPONSORSHIP

Arnold,

HOUSE SPONSORSHIP

Mitchell,

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PENALTIES FOR THE OFFENSE OF FAILURE TO REGISTER**
102 **AS A SEX OFFENDER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

For any sex offender convicted of or adjudicated for a felony sex offense, increases the penalty for the first offense of failure to register as a sex offender from a class 2 misdemeanor to a class 5 felony. For any sex offender convicted of or adjudicated for a misdemeanor sex offense, changes the penalty for the offense of failure to register as a sex offender to a class 1 misdemeanor, and, for an adult offender, imposes a mandatory minimum jail sentence of 180 days.

Identifies misdemeanor failure to register as a sex offender as a

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.*

misdemeanor that presents an extraordinary risk of harm to society.

Makes any adult convicted of felony failure to register as a sex offender subject to sentencing under the "Colorado Sex Offender Lifetime Supervision Act of 1998".

Makes conforming amendments.

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

SECTION 1. 18-3-412.5 (4) (b) and (4) (c), Colorado Revised Statutes, are amended to read:

18-3-412.5. Sex offenders - duty to register - penalties.

(4) (b) (I) Failure to register as a sex offender is a ~~class 2 misdemeanor;~~
~~except that, in addition to any other penalty provided by section 18-1-106,~~
~~a person shall be sentenced to a ninety-day mandatory minimum jail~~
~~sentence. Any second or subsequent offense is a class 6 felony; except~~
~~that, in addition to any other penalty provided by section 18-1-105, a~~
~~person shall be sentenced to a one-year mandatory minimum sentence to~~
~~the department of corrections.~~ CLASS 5 FELONY IF THE PERSON WAS
CONVICTED OF FELONY UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED
FOR AN OFFENSE THAT WOULD CONSTITUTE FELONY UNLAWFUL SEXUAL
BEHAVIOR IF COMMITTED BY AN ADULT. ANY PERSON CONVICTED OF
FELONY FAILURE TO REGISTER AS A SEX OFFENDER SHALL BE SENTENCED
PURSUANT TO THE PROVISIONS OF PART 8 OF ARTICLE 13 OF TITLE 16,
C.R.S.

(II) FAILURE TO REGISTER AS A SEX OFFENDER IS A CLASS 1
MISDEMEANOR IF THE PERSON WAS CONVICTED OF MISDEMEANOR
UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED FOR AN OFFENSE THAT
WOULD CONSTITUTE MISDEMEANOR UNLAWFUL SEXUAL BEHAVIOR IF
COMMITTED BY AN ADULT; EXCEPT THAT, IN ADDITION TO ANY OTHER
PENALTY PROVIDED BY SECTION 18-1-106, AN ADULT OFFENDER SHALL BE

1 SENTENCED TO A MANDATORY MINIMUM JAIL SENTENCE OF ONE HUNDRED
2 EIGHTY DAYS.

3 (c) Any juvenile adjudicated for the delinquent act of failure to
4 register as a sex offender shall be sentenced to a forty-five-day mandatory
5 minimum detention sentence; EXCEPT THAT any juvenile adjudicated for
6 ~~the class 6 felony offense~~ A SECOND OR SUBSEQUENT DELINQUENT ACT OF
7 failure to register as a sex offender shall be placed or committed out of the
8 home for not less than one year.

9 **SECTION 2.** 18-1-106 (3) (b) (III) and (3) (b) (V), Colorado
10 Revised Statutes, are amended, and the said 18-1-106 (3) (b) is further
11 amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

12 **18-1-106. Misdemeanors classified - penalties.**

13 (3) (b) Misdemeanors that present an extraordinary risk of harm to
14 society shall include the following:

15 (III) Child abuse, as defined in section 18-6-401 (7) (a) (V); ~~and~~

16 (V) Second and all subsequent violations of a restraining order as
17 defined in section 18-6-803.5 (1.5) (d); AND

18 (VI) MISDEMEANOR FAILURE TO REGISTER AS A SEX OFFENDER, AS
19 DESCRIBED IN SECTION 18-3-412.5 (4) (b) (II).

20 **SECTION 3.** 16-13-803 (5) (a), Colorado Revised Statutes, is
21 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

22 **16-13-803. Definitions.** As used in this part 8, unless the context
23 otherwise requires:

24 (5) (a) "Sex offense" means any of the following offenses:

25 (XI) FELONY FAILURE TO REGISTER AS A SEX OFFENDER, AS
26 DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S.

27 **SECTION 4.** 16-13-804 (2) (a), Colorado Revised Statutes, is

1 amended to read:

2 **16-13-804. Indeterminate sentence.** (2) (a) The district court
3 having jurisdiction, based on consideration of the evaluation conducted
4 pursuant to section 16-11.7-104 and the factors specified in section
5 16-11-203, may sentence a sex offender to probation for an indeterminate
6 period of at least FIVE YEARS FOR A CLASS 5 FELONY, ten years for a class
7 4 felony, or twenty years for a class 2 or 3 felony, and a maximum of the
8 sex offender's natural life; except that, if the sex offender committed a sex
9 offense that constitutes a crime of violence as defined in section
10 16-11-309, or committed a sex offense that makes him or her eligible for
11 sentencing as a habitual sex offender against children pursuant to section
12 18-3-412, C.R.S. ANY OF THE OFFENSES DESCRIBED IN PARAGRAPHS (b) TO
13 (d) OF SUBSECTION (1) OF THIS SECTION, the court shall sentence the sex
14 offender to the department of corrections as provided in subsection (1) of
15 this section. For any sex offender sentenced to probation pursuant to this
16 subsection (2), the court shall order that the sex offender, as a condition
17 of probation, participate in an intensive supervision probation program
18 established pursuant to section 16-13-807, until further order of the court.

19 **SECTION 5.** 16-13-806 (1) (b) and (3) (a), Colorado Revised
20 Statutes, are amended to read:

21 **16-13-806. Release from incarceration - parole - conditions.**
22 (1) (b) If a sex offender is released on parole pursuant to this section, the
23 sex offender's sentence to incarceration shall continue and shall not be
24 deemed discharged until such time as the parole board may discharge the
25 sex offender from parole pursuant to subsection (3) of this section. THE
26 PERIOD OF PAROLE FOR ANY SEX OFFENDER CONVICTED OF A CLASS 5
27 FELONY SHALL BE AN INDETERMINATE TERM OF AT LEAST FIVE YEARS AND

1 A MAXIMUM OF THE REMAINDER OF THE SEX OFFENDER'S NATURAL LIFE.
2 The period of parole for any sex offender convicted of a class 4 felony
3 shall be an indeterminate term of at least ten years and a maximum of the
4 remainder of the sex offender's natural life. The period of parole for any
5 sex offender convicted of a class 2 or 3 felony shall be an indeterminate
6 term of at least twenty years and a maximum of the remainder of the sex
7 offender's natural life.

8 (3) (a) On completion of twenty years on parole for any sex
9 offender convicted of a class 2 or 3 felony or on completion of ten years
10 of parole for any sex offender convicted of a class 4 felony OR ON
11 COMPLETION OF FIVE YEARS OF PAROLE FOR ANY SEX OFFENDER
12 CONVICTED OF A CLASS 5 FELONY, the parole board shall schedule a
13 hearing to determine whether the sex offender may be discharged from
14 parole. In determining whether to discharge the sex offender from parole,
15 the parole board shall determine whether the sex offender has successfully
16 progressed in treatment and would not pose an undue threat to the
17 community if allowed to live in the community without treatment or
18 supervision. The sex offender's parole officer and treatment provider shall
19 make recommendations to the parole board concerning whether the sex
20 offender has met the requirements specified in this subsection (3) such
21 that the sex offender should be discharged from parole. The
22 recommendations shall be based on the criteria established by the
23 management board pursuant to section 16-13-809.

24 **SECTION 6.** 16-13-808 (2), Colorado Revised Statutes, is
25 amended to read:

26 **16-13-808. Probation - conditions - release.** (2) On completion
27 of twenty years of probation for any sex offender convicted of a class 2

1 or 3 felony or on completion of ten years of probation for any sex
2 offender convicted of a class 4 felony OR ON COMPLETION OF FIVE YEARS
3 OF PROBATION FOR ANY SEX OFFENDER CONVICTED OF A CLASS 5 FELONY,
4 the court shall schedule a review hearing to determine whether the sex
5 offender should be discharged from probation. In making its
6 determination, the court shall determine whether the sex offender has
7 successfully progressed in treatment and would not pose an undue threat
8 to the community if allowed to live in the community without treatment
9 or supervision. The sex offender's probation officer and treatment
10 provider shall make recommendations to the court concerning whether the
11 sex offender has met the requirements of this section such that he or she
12 should be discharged from probation.

13 **SECTION 7.** 16-13-812, Colorado Revised Statutes, is amended
14 to read:

15 **16-13-812. Applicability of part.** (1) The provisions of this part
16 8 shall apply to any person who commits a sex offense on or after
17 November 1, 1998.

18 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS
19 SECTION, FOR PERSONS WHO COMMIT A SEX OFFENSE AS DESCRIBED IN
20 SECTION 16-13-803 (5) (a) (XI), THE PROVISIONS OF THIS PART 8 SHALL
21 APPLY TO OFFENSES COMMITTED ON OR AFTER THE EFFECTIVE DATE OF THIS
22 SUBSECTION (2).

23 **SECTION 8.** Part 1 of article 1 of title 17, Colorado Revised
24 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25 **17-1-133. Appropriation to comply with section 2-2-703 -**
26 **S.B. 01-__.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING
27 STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE

1 NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 01-____, ENACTED AT
2 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

3 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO
4 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE
5 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO
6 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
7 17-1-116, THE SUM OF _____ DOLLARS (\$).

8 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION
9 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
10 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
11 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
12 17-1-116, THE SUM OF _____ DOLLARS (\$).

13 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO
14 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
15 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
16 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

17 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION
18 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
19 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
20 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
21 17-1-116, THE SUM OF _____ DOLLARS (\$).

22 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO
23 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
24 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
25 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

26 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION
27 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM

1 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
2 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
3 17-1-116, THE SUM OF _____ DOLLARS (\$).

4 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO
5 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
6 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
7 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

8 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION
9 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
10 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
11 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
12 17-1-116, THE SUM OF _____ DOLLARS (\$).

13 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO
14 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
15 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
16 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

17 **SECTION 9.** 24-75-302 (2) (n), (2) (o), (2) (p), (2) (q), and (2)
18 (r), Colorado Revised Statutes, are amended to read:

19 **24-75-302. Capital construction fund - capital assessment fees**
20 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
21 through July 1, 2005, a sum as specified in this subsection (2) shall accrue
22 to the capital construction fund. The state treasurer and the controller
23 shall transfer such sum out of the general fund and into the capital
24 construction fund as moneys become available in the general fund during
25 the fiscal year beginning on said July 1. Transfers between funds
26 pursuant to this subsection (2) shall not be deemed to be appropriations
27 subject to the limitations of section 24-75-201.1. The amount which shall

1 accrue pursuant to this subsection (2) shall be as follows:

2 (n) On July 1, 2001, one hundred million dollars, plus one hundred
3 fifty-four thousand six hundred thirty-six dollars pursuant to H.B.
4 97-1186; plus nine hundred five thousand seven hundred twenty-three
5 dollars pursuant to H.B. 97-1077, enacted at the first regular session of the
6 sixty-first general assembly; plus nine thousand eight hundred ninety
7 dollars pursuant to S.B. 98-021, enacted at the second regular session of
8 the sixty-first general assembly; plus three hundred forty-nine thousand
9 fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular
10 session of the sixty-first general assembly; plus three hundred twenty-six
11 thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the
12 second regular session of the sixty-second general assembly; plus
13 ninety-seven thousand two hundred fifty-four dollars pursuant to H.B.
14 00-1111, enacted at the second regular session of the sixty-second general
15 assembly; plus two hundred ninety-one thousand seven hundred sixty-one
16 dollars pursuant to H.B. 00-1158, enacted at the second regular session of
17 the sixty-second general assembly; plus one million one hundred sixteen
18 thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201,
19 enacted at the second regular session of the sixty-second general
20 assembly; plus four hundred sixteen thousand eight hundred two dollars
21 pursuant to H.B. 00-1214, enacted at the second regular session of the
22 sixty-second general assembly; plus sixty-nine thousand four hundred
23 sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second
24 regular session of the sixty-second general assembly; PLUS _____
25 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
26 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

27 (o) On July 1, 2002, one hundred million dollars plus thirteen

1 thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted
2 at the second regular session of the sixty-first general assembly; plus eight
3 million three hundred seven thousand five hundred nine dollars pursuant
4 to H.B. 98-1156, enacted at the second regular session of the sixty-first
5 general assembly; plus three hundred ninety-seven thousand nine hundred
6 twenty-three dollars pursuant to H.B. 98-1160, enacted at the second
7 regular session of the sixty-first general assembly; plus fifty thousand
8 three hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the
9 second regular session of the sixty-second general assembly; plus one
10 hundred twenty-one thousand five hundred sixty-seven dollars pursuant
11 to H.B. 00-1201, enacted at the second regular session of the sixty-second
12 general assembly; plus two hundred fifty thousand eighty-one dollars
13 pursuant to H.B. 00-1214, enacted at the second regular session of the
14 sixty-second general assembly; plus forty thousand five hundred
15 twenty-two dollars pursuant to H.B. 00-1247, enacted at the second
16 regular session of the sixty-second general assembly; PLUS _____
17 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
18 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

19 (p) On July 1, 2003, one hundred million dollars; PLUS _____
20 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
21 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

22 (q) On July 1, 2004, one hundred million dollars plus two hundred
23 thirty-three thousand eight hundred seventy-two dollars pursuant to H.B.
24 00-1201, enacted at the second regular session of the sixty-second general
25 assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT
26 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

27 (r) On July 1, 2005, one hundred million dollars; PLUS _____

1 DOLLARS PURSUANT TO S.B. 01-____, ENACTED AT THE FIRST REGULAR
2 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

3 **SECTION 10. Effective date - applicability.** This act shall take
4 effect upon passage, and shall apply to offenses committed on or after said
5 date.

6 **SECTION 11. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.