

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

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 01-0327.02 Julie Pelegrin

**SENATE BILL 01-210**

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**SENATE SPONSORSHIP**

**Arnold,**

**HOUSE SPONSORSHIP**

**Mitchell,**

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**Senate Committees**

Judiciary

Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PENALTIES FOR THE OFFENSE OF FAILURE TO REGISTER**  
102 **AS A SEX OFFENDER, AND MAKING AN APPROPRIATION**  
103 **THEREFOR.**

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**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.

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.*

SENATE  
3rd Reading Unamended  
May 4, 2001

SENATE  
Amended 2nd Reading  
May 3, 2001

Identifies misdemeanor failure to register as a sex offender as a 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.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds that:

4 (a) Studies show that the recidivism rate for certain persons who  
5 are convicted of unlawful sexual behavior is significantly higher than for  
6 persons who are convicted of other crimes;

7 (b) Persons who are convicted of unlawful sexual behavior and  
8 subsequently released into the community with little or no supervision can  
9 pose an extreme danger to society, especially to children, who are most  
10 in need of society's protection;

11 (c) Unlawful sexual behavior takes a devastating toll on society,  
12 creating victims who, though they may recover from the physical injuries  
13 they receive, often suffer from psychological trauma and injury that  
14 continues throughout their lives, affecting their personal and social  
15 relationships and their ability to fully participate in and contribute to  
16 society;

17 (d) Requiring persons who are convicted of unlawful sexual  
18 behavior to periodically and consistently register with their local law  
19 enforcement agencies is a necessary step in reducing the danger posed by  
20 these persons;

21 (e) Studies show that most persons who engage in unlawful sexual  
22 behavior develop a pattern of actions that lead up to the offense and that

1 refusing to register as a sex offender is, in certain cases, an early step in  
2 following that pattern and often leads, ultimately, to a subsequent offense  
3 of unlawful sexual behavior;

4 (f) Imposing a significant penalty for failure to register as a sex  
5 offender is likely to result in greater compliance with the sex offender  
6 registration requirements and more effective law enforcement and will  
7 provide a more effective mechanism for early intervention with a person  
8 before that person's pattern of actions culminates in creation of another  
9 victim of unlawful sexual behavior.

10 (2) The general assembly therefore finds that failure to register as  
11 a sex offender is a serious offense that requires imposition of a significant  
12 penalty in order to adequately protect the public safety.

13 **SECTION 2.** 18-3-412.5 (4) (b) and (4) (c), Colorado Revised  
14 Statutes, are amended to read:

15 **18-3-412.5. Sex offenders - duty to register - penalties.**

16 (4) (b) (I) Failure to register as a sex offender is a ~~class 2 misdemeanor;~~  
17 ~~except that, in addition to any other penalty provided by section 18-1-106,~~  
18 ~~a person shall be sentenced to a ninety-day mandatory minimum jail~~  
19 ~~sentence. Any second or subsequent offense is a class 6 felony; except~~  
20 ~~that, in addition to any other penalty provided by section 18-1-105, a~~  
21 ~~person shall be sentenced to a one-year mandatory minimum sentence to~~  
22 ~~the department of corrections. CLASS 6 FELONY IF THE PERSON WAS~~  
23 ~~CONVICTED OF FELONY UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED~~  
24 ~~FOR AN OFFENSE THAT WOULD CONSTITUTE FELONY UNLAWFUL SEXUAL~~  
25 ~~BEHAVIOR IF COMMITTED BY AN ADULT; EXCEPT THAT ANY SECOND OR~~  
26 ~~SUBSEQUENT OFFENSE OF FAILURE TO REGISTER AS A SEX OFFENDER BY~~  
27 ~~SUCH PERSON IS A CLASS 5 FELONY. ANY PERSON CONVICTED OF FELONY~~

1 FAILURE TO REGISTER AS A SEX OFFENDER SHALL BE SENTENCED PURSUANT  
2 TO THE PROVISIONS OF SECTION 18-1-105. IF SUCH PERSON IS SENTENCED  
3 TO PROBATION, THE COURT SHALL REQUIRE, AS A CONDITION OF  
4 PROBATION, THAT THE PERSON PARTICIPATE UNTIL FURTHER ORDER OF THE  
5 COURT IN AN INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED  
6 PURSUANT TO SECTION 16-13-807, C.R.S. IF SUCH PERSON IS SENTENCED  
7 TO INCARCERATION AND SUBSEQUENTLY RELEASED ON PAROLE, THE  
8 PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, THAT THE  
9 PERSON PARTICIPATE IN AN INTENSIVE SUPERVISION PAROLE PROGRAM  
10 ESTABLISHED PURSUANT TO SECTION 16-13-805, C.R.S.

11 (II) FAILURE TO REGISTER AS A SEX OFFENDER IS A CLASS 1  
12 MISDEMEANOR IF THE PERSON WAS CONVICTED OF MISDEMEANOR  
13 UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED FOR AN OFFENSE THAT  
14 WOULD CONSTITUTE MISDEMEANOR UNLAWFUL SEXUAL BEHAVIOR IF  
15 COMMITTED BY AN ADULT.

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

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

25 **18-1-106. Misdemeanors classified - penalties.**  
26 (3) (b) Misdemeanors that present an extraordinary risk of harm to  
27 society shall include the following:

1 (III) Child abuse, as defined in section 18-6-401 (7) (a) (V); and  
2 (V) Second and all subsequent violations of a restraining order as  
3 defined in section 18-6-803.5 (1.5) (d); AND  
4 (VI) MISDEMEANOR FAILURE TO REGISTER AS A SEX OFFENDER, AS  
5 DESCRIBED IN SECTION 18-3-412.5 (4) (b) (II).

6 **SECTION 4.** 16-13-805, Colorado Revised Statutes, is amended  
7 **BY THE ADDITION OF A NEW SUBSECTION** to read:

8 **16-13-805. Parole - intensive supervision program.** (1.5) IN  
9 ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,  
10 THE PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, ANY  
11 PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER,  
12 AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S., WHO IS  
13 SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON  
14 PAROLE, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM  
15 ESTABLISHED PURSUANT TO THIS SECTION.

16 **SECTION 5.** 16-13-807, Colorado Revised Statutes, is amended  
17 **BY THE ADDITION OF A NEW SUBSECTION** to read:

18 **16-13-807. Probation - intensive supervision program.** (1.5) IN  
19 ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,  
20 THE COURT SHALL REQUIRE ANY PERSON CONVICTED OF FELONY FAILURE  
21 TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4)  
22 (b) (I), C.R.S., AND SENTENCED TO PROBATION TO PARTICIPATE, AS A  
23 CONDITION OF PROBATION AND UNTIL FURTHER ORDER OF THE COURT, IN  
24 THE INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED  
25 PURSUANT TO THIS SECTION.

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27 \_\_\_\_\_

1           **SECTION 6.** Part 1 of article 1 of title 17, Colorado Revised  
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

3           **17-1-133. Appropriation to comply with section 2-2-703 - S.B.**  
4 **01-210.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING  
5 STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE  
6 NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 01-210, ENACTED AT  
7 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

8           (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO  
9 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE  
10 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO  
11 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION  
12 17-1-116, THE SUM OF FOUR HUNDRED SIXTY-SIX THOUSAND EIGHT  
13 DOLLARS (\$466,008).

14           \_\_\_\_\_

15           **(b)** FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO  
16 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE  
17 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL  
18 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED  
19 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

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21           **(c)** FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION  
22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE  
23 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL  
24 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED  
25 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

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27           \_\_\_\_\_

1           (d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION  
2 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE  
3 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL  
4 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED  
5 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

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7           (e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION  
8 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE  
9 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL  
10 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED  
11 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

12           **SECTION 7.** 24-75-302 (2) (n), \_\_\_\_\_ Colorado  
13 Revised Statutes, is amended to read:

14           **24-75-302. Capital construction fund - capital assessment fees**  
15 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter  
16 through July 1, 2005, a sum as specified in this subsection (2) shall accrue  
17 to the capital construction fund. The state treasurer and the controller  
18 shall transfer such sum out of the general fund and into the capital  
19 construction fund as moneys become available in the general fund during  
20 the fiscal year beginning on said July 1. Transfers between funds  
21 pursuant to this subsection (2) shall not be deemed to be appropriations  
22 subject to the limitations of section 24-75-201.1. The amount which shall  
23 accrue pursuant to this subsection (2) shall be as follows:

24           (n) On July 1, 2001, one hundred million dollars, plus one hundred  
25 fifty-four thousand six hundred thirty-six dollars pursuant to H.B.  
26 97-1186; plus nine hundred five thousand seven hundred twenty-three  
27 dollars pursuant to H.B. 97-1077, enacted at the first regular session of the

1 sixty-first general assembly; plus nine thousand eight hundred ninety  
2 dollars pursuant to S.B. 98-021, enacted at the second regular session of  
3 the sixty-first general assembly; plus three hundred forty-nine thousand  
4 fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular  
5 session of the sixty-first general assembly; plus three hundred twenty-six  
6 thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the  
7 second regular session of the sixty-second general assembly; plus  
8 ninety-seven thousand two hundred fifty-four dollars pursuant to H.B.  
9 00-1111, enacted at the second regular session of the sixty-second general  
10 assembly; plus two hundred ninety-one thousand seven hundred sixty-one  
11 dollars pursuant to H.B. 00-1158, enacted at the second regular session of  
12 the sixty-second general assembly; plus one million one hundred sixteen  
13 thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201,  
14 enacted at the second regular session of the sixty-second general  
15 assembly; plus four hundred sixteen thousand eight hundred two dollars  
16 pursuant to H.B. 00-1214, enacted at the second regular session of the  
17 sixty-second general assembly; plus sixty-nine thousand four hundred  
18 sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second  
19 regular session of the sixty-second general assembly; PLUS FOUR HUNDRED  
20 SIXTY-SIX THOUSAND EIGHT DOLLARS PURSUANT TO S.B. 01-210, ENACTED  
21 AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

22 \_\_\_\_\_  
23 \_\_\_\_\_

24 **SECTION 8. Appropriation.** In addition to any other  
25 appropriation, there is hereby appropriated, out of moneys in the offender  
26 services fund, created in section 16-11-214, Colorado Revised Statutes,  
27 not otherwise appropriated, to the judicial department, probation and

1 related services, sex offender intensive supervision program, for the fiscal  
2 year beginning July 1, 2001, the sum of thirty-six thousand sixty dollars  
3 (\$36,060) and 0.5 FTE, or so much thereof as may be necessary, for the  
4 implementation of this act.

5 **SECTION 9. Effective date - applicability.** This act shall take  
6 effect upon passage, and shall apply to offenses committed on or after said  
7 date.

8 **SECTION 10. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, and safety.