

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 01-0327.02 Julie Pelegrin

SENATE BILL 01-210

SENATE SPONSORSHIP

Arnold,

HOUSE SPONSORSHIP

Mitchell,

Senate Committees

Judiciary
Appropriations

House Committees

Criminal Justice
Appropriations

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.**

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.*

HOUSE
3rd Reading Unamended
May 9, 2001

HOUSE
Amended 2nd Reading
May 8, 2001

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.

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

24 (II) ANY JUVENILE ADJUDICATED FOR THE DELINQUENT ACT OF
25 FAILURE TO REGISTER AS A SEX OFFENDER THAT WOULD CONSTITUTE A
26 MISDEMEANOR IF COMMITTED BY AN ADULT SHALL BE SENTENCED TO A
27 THIRTY-DAY MANDATORY MINIMUM DETENTION SENTENCE; EXCEPT THAT

1 ANY JUVENILE ADJUDICATED FOR A SECOND OR SUBSEQUENT DELINQUENT
2 ACT OF FAILURE TO REGISTER AS A SEX OFFENDER THAT WOULD
3 CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT SHALL BE
4 SENTENCED TO A FORTY-FIVE-DAY MANDATORY MINIMUM DETENTION
5 SENTENCE.

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

9 **18-1-106. Misdemeanors classified - penalties.**

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

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

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

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

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

19 **16-13-805. Parole - intensive supervision program. (1.5) IN**
20 **ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,**
21 **THE PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, ANY**
22 **PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER,**
23 **AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S., WHO IS**
24 **SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON**
25 **PAROLE, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM**
26 **ESTABLISHED PURSUANT TO THIS SECTION.**

27 **SECTION 5.** 16-13-807, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **16-13-807. Probation - intensive supervision program. (1.5) IN**
3 ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,
4 THE COURT SHALL REQUIRE ANY PERSON CONVICTED OF FELONY FAILURE
5 TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4)
6 (b) (I), C.R.S., AND SENTENCED TO PROBATION TO PARTICIPATE, AS A
7 CONDITION OF PROBATION AND UNTIL FURTHER ORDER OF THE COURT, IN
8 THE INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED
9 PURSUANT TO THIS SECTION.

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

14 **17-1-133. Appropriation to comply with section 2-2-703 - S.B.**
15 **01-210.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING
16 STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE
17 NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 01-210, ENACTED AT
18 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

19 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO
20 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE
21 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO
22 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
23 17-1-116, THE SUM OF FOUR HUNDRED SIXTY-SIX THOUSAND EIGHT
24 DOLLARS (\$466,008).

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26 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO
27 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE

1 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
2 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED
3 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

4
5 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION
6 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
7 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL
8 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED
9 SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

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

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

23 **SECTION 7.** 24-75-302 (2) (n), _____ Colorado
24 Revised Statutes, is amended to read:

25 **24-75-302. Capital construction fund - capital assessment fees**
26 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
27 through July 1, 2005, a sum as specified in this subsection (2) shall accrue

1 to the capital construction fund. The state treasurer and the controller
2 shall transfer such sum out of the general fund and into the capital
3 construction fund as moneys become available in the general fund during
4 the fiscal year beginning on said July 1. Transfers between funds
5 pursuant to this subsection (2) shall not be deemed to be appropriations
6 subject to the limitations of section 24-75-201.1. The amount which shall
7 accrue pursuant to this subsection (2) shall be as follows:

8 (n) On July 1, 2001, one hundred million dollars, plus one hundred
9 fifty-four thousand six hundred thirty-six dollars pursuant to H.B.
10 97-1186; plus nine hundred five thousand seven hundred twenty-three
11 dollars pursuant to H.B. 97-1077, enacted at the first regular session of the
12 sixty-first general assembly; plus nine thousand eight hundred ninety
13 dollars pursuant to S.B. 98-021, enacted at the second regular session of
14 the sixty-first general assembly; plus three hundred forty-nine thousand
15 fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular
16 session of the sixty-first general assembly; plus three hundred twenty-six
17 thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the
18 second regular session of the sixty-second general assembly; plus
19 ninety-seven thousand two hundred fifty-four dollars pursuant to H.B.
20 00-1111, enacted at the second regular session of the sixty-second general
21 assembly; plus two hundred ninety-one thousand seven hundred sixty-one
22 dollars pursuant to H.B. 00-1158, enacted at the second regular session of
23 the sixty-second general assembly; plus one million one hundred sixteen
24 thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201,
25 enacted at the second regular session of the sixty-second general
26 assembly; plus four hundred sixteen thousand eight hundred two dollars
27 pursuant to H.B. 00-1214, enacted at the second regular session of the

1 sixty-second general assembly; plus sixty-nine thousand four hundred
2 sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second
3 regular session of the sixty-second general assembly; PLUS FOUR HUNDRED
4 SIXTY-SIX THOUSAND EIGHT DOLLARS PURSUANT TO S.B. 01-210, ENACTED
5 AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

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8 **SECTION 8. Appropriation.** In addition to any other
9 appropriation, there is hereby appropriated, out of moneys in the offender
10 services fund, created in section 16-11-214, Colorado Revised Statutes,
11 not otherwise appropriated, to the judicial department, probation and
12 related services, sex offender intensive supervision program, for the fiscal
13 year beginning July 1, 2001, the sum of thirty-six thousand sixty dollars
14 (\$36,060) and 0.5 FTE, or so much thereof as may be necessary, for the
15 implementation of this act.

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

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