

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 01-0327.02 Julie Pelegrin

SENATE BILL 01-210

SENATE SPONSORSHIP

Arnold,

HOUSE SPONSORSHIP

Mitchell,

Senate Committees

Judiciary

Appropriations

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. Legislative declaration. (1) The general assembly hereby finds that:

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

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

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

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

(e) Studies show that most persons who engage in unlawful sexual behavior develop a pattern of actions that lead up to the offense and that refusing to register as a sex offender is, in certain cases, an early step in

1 following that pattern and often leads, ultimately, to a subsequent offense
2 of unlawful sexual behavior;

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

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

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

14 **18-3-412.5. Sex offenders - duty to register - penalties.**

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

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

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

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

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

24 **18-1-106. Misdemeanors classified - penalties.**

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

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

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

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

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

7 **16-13-805. Parole - intensive supervision program. (1.5) IN**
8 **ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,**
9 **THE PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, ANY**
10 **PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER,**
11 **AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S., WHO IS**
12 **SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON**
13 **PAROLE, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM**
14 **ESTABLISHED PURSUANT TO THIS SECTION.**

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

17 **16-13-807. Probation - intensive supervision program. (1.5) IN**
18 **ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION,**
19 **THE COURT SHALL REQUIRE ANY PERSON CONVICTED OF FELONY FAILURE**
20 **TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4)**
21 **(b) (I), C.R.S., AND SENTENCED TO PROBATION TO PARTICIPATE, AS A**
22 **CONDITION OF PROBATION AND UNTIL FURTHER ORDER OF THE COURT, IN**
23 **THE INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED**
24 **PURSUANT TO THIS SECTION.**

25 _____
26 _____
27 **SECTION 6.** Part 1 of article 1 of title 17, Colorado Revised

1 Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

2 **17-1-133. Appropriation to comply with section 2-2-703 -**

3 **S.B. 01-__.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING

4 STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE

5 NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 01-__, ENACTED AT

6 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

7 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO

8 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE

9 CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO

10 THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION

11 17-1-116, THE SUM OF _____ DOLLARS (\$).

12 (b) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION

13 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM

14 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,

15 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION

16 17-1-116, THE SUM OF _____ DOLLARS (\$).

17 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO

18 ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE

19 DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL

20 FUND NOT OTHERWISE APPROPRIATED, THE SUM OF _____ DOLLARS (\$).

21 (c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION

22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM

23 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,

24 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION

25 17-1-116, THE SUM OF _____ DOLLARS (\$).

26 (II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, 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 _____ DOLLARS (\$).

3 (d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION
4 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
5 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
6 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
7 17-1-116, THE SUM OF _____ DOLLARS (\$).

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

12 (e) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION
13 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED, FROM
14 THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S.,
15 TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION
16 17-1-116, THE SUM OF _____ DOLLARS (\$).

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

21 **SECTION 7.** 24-75-302 (2) (n), (2) (o), (2) (p), (2) (q), and (2)
22 (r), Colorado Revised Statutes, are amended to read:

23 **24-75-302. Capital construction fund - capital assessment fees**
24 **- calculation.** (2) As of July 1, 1988, and July 1 of each year thereafter
25 through July 1, 2005, a sum as specified in this subsection (2) shall accrue
26 to the capital construction fund. The state treasurer and the controller
27 shall transfer such sum out of the general fund and into the capital

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

6 (n) On July 1, 2001, one hundred million dollars, plus one hundred
7 fifty-four thousand six hundred thirty-six dollars pursuant to H.B.
8 97-1186; plus nine hundred five thousand seven hundred twenty-three
9 dollars pursuant to H.B. 97-1077, enacted at the first regular session of the
10 sixty-first general assembly; plus nine thousand eight hundred ninety
11 dollars pursuant to S.B. 98-021, enacted at the second regular session of
12 the sixty-first general assembly; plus three hundred forty-nine thousand
13 fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular
14 session of the sixty-first general assembly; plus three hundred twenty-six
15 thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the
16 second regular session of the sixty-second general assembly; plus
17 ninety-seven thousand two hundred fifty-four dollars pursuant to H.B.
18 00-1111, enacted at the second regular session of the sixty-second general
19 assembly; plus two hundred ninety-one thousand seven hundred sixty-one
20 dollars pursuant to H.B. 00-1158, enacted at the second regular session of
21 the sixty-second general assembly; plus one million one hundred sixteen
22 thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201,
23 enacted at the second regular session of the sixty-second general
24 assembly; plus four hundred sixteen thousand eight hundred two dollars
25 pursuant to H.B. 00-1214, enacted at the second regular session of the
26 sixty-second general assembly; plus sixty-nine thousand four hundred
27 sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second

1 regular session of the sixty-second general assembly; PLUS _____
2 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
3 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

4 (o) On July 1, 2002, one hundred million dollars plus thirteen
5 thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted
6 at the second regular session of the sixty-first general assembly; plus eight
7 million three hundred seven thousand five hundred nine dollars pursuant
8 to H.B. 98-1156, enacted at the second regular session of the sixty-first
9 general assembly; plus three hundred ninety-seven thousand nine hundred
10 twenty-three dollars pursuant to H.B. 98-1160, enacted at the second
11 regular session of the sixty-first general assembly; plus fifty thousand
12 three hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the
13 second regular session of the sixty-second general assembly; plus one
14 hundred twenty-one thousand five hundred sixty-seven dollars pursuant
15 to H.B. 00-1201, enacted at the second regular session of the sixty-second
16 general assembly; plus two hundred fifty thousand eighty-one dollars
17 pursuant to H.B. 00-1214, enacted at the second regular session of the
18 sixty-second general assembly; plus forty thousand five hundred
19 twenty-two dollars pursuant to H.B. 00-1247, enacted at the second
20 regular session of the sixty-second general assembly; PLUS _____
21 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
22 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

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

26 (q) On July 1, 2004, one hundred million dollars plus two hundred
27 thirty-three thousand eight hundred seventy-two dollars pursuant to H.B.

1 00-1201, enacted at the second regular session of the sixty-second general
2 assembly; PLUS _____ DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT
3 THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

4 (r) On July 1, 2005, one hundred million dollars; PLUS _____
5 DOLLARS PURSUANT TO S.B. 01-_____, ENACTED AT THE FIRST REGULAR
6 SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

7 **SECTION 8. Effective date - applicability.** This act shall take
8 effect upon passage, and shall apply to offenses committed on or after said
9 date.

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