

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 11-0770.01 Michael Dohr

HOUSE BILL 11-1278

HOUSE SPONSORSHIP

Gardner B.,

SENATE SPONSORSHIP

Morse,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING SEX OFFENDER REGISTRATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sections 1 and 2. Under current law, a person may be designated as a sexually violent predator in Colorado based on such a finding or its equivalent in another jurisdiction. The bill defines equivalent and provides notice and the right to appeal when a person is designated as a sexually violent predator in Colorado based on such a finding or its equivalent in another jurisdiction.

Section 3. If a defendant is convicted of second degree

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 3, 2011

SENATE
Amended 2nd Reading
May 2, 2011

HOUSE
3rd Reading Unamended
April 11, 2011

HOUSE
Amended 2nd Reading
April 8, 2011

kidnapping and the person kidnapped is a victim of sexual assault, the defendant would be required to register as a sex offender.

Section 4. If a defendant is convicted in a tribal or territorial jurisdiction of a sex offense requiring sex offender registration, the defendant would be required to register as a sex offender.

Section 5. The sheriff of a county jail would submit sex offender re-registration information for a person who is required to register and is held in jail for more than 5 days or is sentenced to jail for any offense.

Section 6. Under current law, a law enforcement agency can charge a fee to sex offenders for registration services. The fee would be capped at \$25 for annual and quarterly registration and could not be charged when an offender updates his or her registration information. If the offender is unable to pay the fee at the time of registration, the fee debt may be sent to civil collections.

Under current law, when a person required to register as a sex offender moves into a different jurisdiction, the offender must cancel registration with the law enforcement agency in his or her former home and register with the law enforcement agency in his or her new home. In addition, the bill would require the law enforcement agency in the new home to notify the law enforcement agency in the former home regarding the cancellation of the registration.

Under current law, the date of a person's registration after initial registration is his or her birthday. The bill provides a 5-day grace period for the registration date.

Section 7. Under current law, an adult sex offender who successfully completes a deferred sentence for an offense requiring sex offender registration or a juvenile who discharges his or her sentence for certain offenses requiring sex offender registration may petition to discontinue registration. The bill would require the court to consider whether to discontinue the registration requirement when it dismisses the charges in a deferred sentence case or when it discharges a juvenile's sentence. In the case of a juvenile on parole, the division of youth corrections would petition on behalf of the juvenile to discontinue registration before the juvenile's parole is discharged.

Section 8. The bill adds the county in which an offender completed his or her last sex offender registration as a proper venue for a failure to register as a sex offender charge.

Sections 9 and 10. Under current law, a person convicted of failure to register as a sex offender who is on probation or parole is subject to intensive supervised probation or parole. The bill would make the use of intensive supervised probation or parole discretionary with the court or parole board. The bill creates an affirmative defense to a failure to register charge if uncontrollable circumstances prevented timely registration and the defendant registered as soon as the uncontrollable circumstances ceased to exist.

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

2 **SECTION 1.** 16-13-902 (5), Colorado Revised Statutes, is
3 amended to read:

4 **16-13-902. Definitions.** As used in this part 9, unless the context
5 otherwise requires:

6 (5) "Sexually violent predator" means a sex offender who is
7 identified as a sexually violent predator pursuant to section 18-3-414.5,
8 C.R.S., or who is found to be a sexually violent predator or its equivalent
9 in any other state or jurisdiction, including but not limited to a military or
10 federal jurisdiction. FOR PURPOSES OF THIS SUBSECTION (5),
11 "EQUIVALENT", WITH RESPECT TO AN OFFENDER FOUND TO BE A SEXUALLY
12 VIOLENT PREDATOR OR ITS EQUIVALENT, MEANS A SEX OFFENDER
13 CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT
14 LIMITED TO A MILITARY, TRIBAL, TERRITORIAL, OR FEDERAL JURISDICTION,
15 WHO HAS BEEN ASSESSED OR LABELED AT THE HIGHEST REGISTRATION
16 AND NOTIFICATION LEVELS IN THE JURISDICTION WHERE THE CONVICTION
17 WAS ENTERED AND WHO SATISFIES THE AGE, DATE OF OFFENSE, AND
18 CONVICTION REQUIREMENTS FOR SEXUALLY VIOLENT PREDATOR STATUS
19 PURSUANT TO COLORADO LAW.

20 **SECTION 2.** 16-13-903, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF A NEW SUBSECTION, to read:

22 **16-13-903. Sexually violent predator subject to community**
23 **notification - determination - implementation.** (5) A SEX OFFENDER
24 CONVICTED IN ANOTHER JURISDICTION WHO IS DESIGNATED AS A
25 SEXUALLY VIOLENT PREDATOR BY THE DEPARTMENT OF PUBLIC SAFETY
26 FOR PURPOSES OF COLORADO LAW SHALL BE NOTIFIED OF HIS OR HER

1 DESIGNATION AND SHALL HAVE THE RIGHT TO APPEAL THE DESIGNATION
2 IN DISTRICT COURT.

3 **SECTION 3.** 16-22-102 (9), Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

5 **16-22-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (9) "Unlawful sexual behavior" means any of the following
8 offenses or criminal attempt, conspiracy, or solicitation to commit any of
9 the following offenses:

10 (bb) SECOND DEGREE KIDNAPPING, IF COMMITTED IN VIOLATION OF
11 SECTION 18-3-302 (3) (a), C.R.S.

12

13 **SECTION 4.** 16-22-103 (1) (b), Colorado Revised Statutes, is
14 amended to read:

15 **16-22-103. Sex offender registration - required - applicability**
16 **- exception.** (1) Effective July 1, 1998, the following persons shall be
17 required to register pursuant to the provisions of section 16-22-108 and
18 shall be subject to the requirements and other provisions specified in this
19 article:

20 (b) Any person who was convicted on or after July 1, 1991, in
21 another state or jurisdiction, including but not limited to a military,
22 TRIBAL, TERRITORIAL, or federal jurisdiction, of an offense that, if
23 committed in Colorado, would constitute an unlawful sexual offense, as
24 defined in section 18-3-411 (1), C.R.S., enticement of a child, as
25 described in section 18-3-305, C.R.S., or internet luring of a child, as
26 described in section 18-3-306, C.R.S.; and

27 **SECTION 5.** 16-22-106 (3) (a), Colorado Revised Statutes, is

1 amended to read:

2 **16-22-106. Duties - probation department - community**
3 **corrections administrator - court personnel - jail personnel - notice.**

4 (3) (a) (I) IF A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO
5 SECTION 16-22-103 IS HELD FOR MORE THAN FIVE BUSINESS DAYS IN A
6 COUNTY JAIL PENDING COURT DISPOSITION FOR ANY OFFENSE, THE SHERIFF
7 OF THE COUNTY IN WHICH THE COUNTY JAIL IS LOCATED, OR HIS OR HER
8 DESIGNEE, SHALL TRANSMIT TO THE LOCAL LAW ENFORCEMENT AGENCY
9 OF THE JURISDICTION IN WHICH THE PERSON WAS LAST REGISTERED AND
10 TO THE CBI CONFIRMATION OF THE PERSON'S REGISTRATION. THE
11 CONFIRMATION SHALL BE TRANSMITTED ON A STANDARDIZED FORM
12 PROVIDED BY THE CBI, AND SHALL INCLUDE THE ADDRESS OR ADDRESSES
13 AT WHICH THE PERSON WILL RESIDE WHILE IN CUSTODY OF THE COUNTY
14 JAIL, THE PERSON'S DATE OF BIRTH, A CURRENT PHOTOGRAPH OF THE
15 PERSON, AND THE PERSON'S FINGERPRINTS.

16 ~~(H)~~ (II) If a person who is required to register pursuant to section
17 16-22-103 is sentenced to a county jail FOR ANY OFFENSE, the sheriff of
18 the county in which the county jail is located, or his or her designee, as
19 soon as possible following sentencing, shall transmit to THE LOCAL LAW
20 ENFORCEMENT AGENCY OF THE JURISDICTION IN WHICH THE PERSON WAS
21 LAST REGISTERED AND TO the CBI confirmation of the person's
22 registration. THE CONFIRMATION SHALL BE TRANSMITTED on a
23 standardized form provided by the CBI, ~~using~~ AND SHALL INCLUDE the
24 address or addresses at which the person will reside while in custody of
25 the county jail, ~~and including~~ the person's date of birth, a current
26 photograph of the person, and the person's fingerprints.

27 ~~(H)~~ (III) The provisions of this paragraph (a) shall apply to persons

1 sentenced on or after January 1, 2005.

2 **SECTION 6.** 16-22-108 (1) (b), the introductory portion to
3 16-22-108 (3), and 16-22-108 (3) (a.5), (4), and (7), Colorado Revised
4 Statutes, are amended to read:

5 **16-22-108. Registration - procedure - frequency - place -**
6 **change of address - fee.** (1) (b) Except as otherwise provided in
7 paragraph (d) of this subsection (1), each person who is required to
8 register pursuant to section 16-22-103 shall reregister ~~on~~ WITHIN FIVE
9 BUSINESS DAYS BEFORE OR AFTER the person's first birthday following
10 initial registration and annually ~~on~~ WITHIN FIVE BUSINESS DAYS BEFORE
11 OR AFTER the person's birthday thereafter. ~~If a person's birthday falls on~~
12 ~~a Saturday, Sunday, or holiday, the person shall reregister on the first~~
13 ~~business day following his or her birthday.~~ Such person shall reregister
14 pursuant to this paragraph (b) with the local law enforcement agency of
15 each jurisdiction in which the person resides ~~on~~ WITHIN FIVE BUSINESS
16 DAYS BEFORE OR AFTER his or her birthday, in the manner provided in
17 paragraph (a) of this subsection (1).

18 (3) Any person who is required to register pursuant to section
19 16-22-103 shall be required to register WITHIN FIVE BUSINESS DAYS
20 BEFORE OR AFTER each time such person:

21 (a.5) Changes the address at which a VEHICLE, trailer, or motor
22 home is located, if the VEHICLE, trailer, or motor home is the person's
23 place of residence, regardless of whether the new address is within the
24 jurisdiction of the law enforcement agency with which such person
25 previously registered;

26 (4) (a) (I) Any time a person who is required to register pursuant
27 to section 16-22-103 ceases to reside at an address, ~~the person shall notify~~

1 ~~the local law enforcement agency of the jurisdiction in which said address~~
2 ~~is located by completing a written registration cancellation form,~~
3 ~~available from the local law enforcement agency. At a minimum, the~~
4 ~~registration cancellation form shall indicate~~ THE PERSON SHALL REGISTER
5 WITH THE LOCAL LAW ENFORCEMENT AGENCY FOR HIS OR HER NEW
6 ADDRESS AND INCLUDE the address at which the person will no longer
7 reside and all addresses at which the person will reside. The person shall
8 file the NEW registration ~~cancellation~~ form within five business days after
9 ceasing to reside at an address. ~~A local law enforcement agency that~~
10 ~~receives a registration cancellation form~~ THE LOCAL ENFORCEMENT
11 AGENCY THAT RECEIVES THE NEW REGISTRATION FORM SHALL INFORM THE
12 PREVIOUS JURISDICTION OF THE CANCELLATION OF THAT REGISTRATION
13 AND shall electronically notify the CBI of the registration cancellation.
14 ~~If the person moves to another state, the CBI shall promptly notify the~~
15 ~~agency responsible for registration in the new state.~~

16 (II) ANY TIME A PERSON WHO IS REQUIRED TO REGISTER PURSUANT
17 TO SECTION 16-22-103 CEASES TO RESIDE AT AN ADDRESS AND MOVES TO
18 ANOTHER STATE, THE PERSON SHALL NOTIFY THE LOCAL LAW
19 ENFORCEMENT AGENCY OF THE JURISDICTION IN WHICH SAID ADDRESS IS
20 LOCATED BY COMPLETING A WRITTEN REGISTRATION CANCELLATION
21 FORM, AVAILABLE FROM THE LOCAL LAW ENFORCEMENT AGENCY. AT A
22 MINIMUM, THE REGISTRATION CANCELLATION FORM SHALL INDICATE THE
23 ADDRESS AT WHICH THE PERSON WILL NO LONGER RESIDE AND ALL
24 ADDRESSES AT WHICH THE PERSON WILL RESIDE. THE PERSON SHALL FILE
25 THE REGISTRATION CANCELLATION FORM WITHIN FIVE BUSINESS DAYS
26 AFTER CEASING TO RESIDE AT AN ADDRESS. A LOCAL LAW ENFORCEMENT
27 AGENCY THAT RECEIVES A REGISTRATION CANCELLATION FORM SHALL

1 ELECTRONICALLY NOTIFY THE CBI OF THE REGISTRATION CANCELLATION.
2 IF THE PERSON MOVES TO ANOTHER STATE, THE CBI SHALL PROMPTLY
3 NOTIFY THE AGENCY RESPONSIBLE FOR REGISTRATION IN THE OTHER
4 STATE.

5 (b) If a person fails to submit the NEW REGISTRATION FORM OR
6 registration cancellation form as required in paragraph (a) of this
7 subsection (4) and the address at which the person is no longer residing
8 is a group facility, officials at such facility may provide information
9 concerning the person's cessation of residency to the local law
10 enforcement agency of the jurisdiction in which the address is located.
11 If the person is a juvenile or developmentally disabled and fails to submit
12 the registration cancellation form as required in paragraph (a) of this
13 subsection (4) and the address at which the person is no longer residing
14 is the residence of his or her parent or legal guardian, the person's parent
15 or legal guardian may provide information concerning the person's
16 cessation of residency to the local law enforcement agency of the
17 jurisdiction in which the address is located. Any law enforcement agency
18 that receives such information shall reflect in its records that the person
19 no longer resides at said group facility or the parent's or legal guardian's
20 residence and shall transmit such information to the CBI. Provision of
21 information by a group facility or a person's parent or legal guardian
22 pursuant to this paragraph (b) shall not constitute a defense to a charge of
23 failure to register as a sex offender.

24 (7) (a) A local law enforcement agency may establish a
25 registration fee to be paid by persons registering and reregistering
26 ANNUALLY OR QUARTERLY with the local law enforcement agency
27 pursuant to the provisions of this section. The amount of the fee shall

1 reflect the actual direct costs incurred by the local law enforcement
2 agency in implementing the provisions of this article, BUT SHALL NOT
3 EXCEED SEVENTY-FIVE DOLLARS FOR THE INITIAL REGISTRATION WITH THE
4 LOCAL LAW ENFORCEMENT AGENCY AND TWENTY-FIVE DOLLARS FOR ANY
5 SUBSEQUENT ANNUAL OR QUARTERLY REGISTRATION.

6 (b) THE LOCAL LAW ENFORCEMENT AGENCY MAY WAIVE THE FEE
7 FOR AN INDIGENT PERSON. FOR ALL OTHER PERSONS, THE LOCAL LAW
8 ENFORCEMENT AGENCY MAY PURSUE PAYMENT OF THE FEE THROUGH A
9 CIVIL COLLECTION PROCESS OR ANY OTHER LAWFUL MEANS IF THE PERSON
10 IS UNABLE TO PAY AT THE TIME OF REGISTRATION. A LOCAL LAW
11 ENFORCEMENT AGENCY SHALL ACCEPT A TIMELY REGISTRATION IN ALL
12 CIRCUMSTANCES EVEN IF THE PERSON IS UNABLE TO PAY THE FEE AT THE
13 TIME OF REGISTRATION.

14 (c) A LOCAL LAW ENFORCEMENT AGENCY MAY NOT CHARGE A FEE
15 TO A PERSON WHO PROVIDES AN UPDATE TO HIS OR HER INFORMATION
16 PURSUANT TO SUBSECTION (3) OF THIS SECTION.

17 **SECTION 7.** The introductory portion to 16-22-113 (1),
18 16-22-113 (1) (d) and (1) (e), and the introductory portion to 16-22-113
19 (2) (d), Colorado Revised Statutes, are amended, and the said 16-22-113
20 is further amended BY THE ADDITION OF A NEW SUBSECTION, to
21 read:

22 **16-22-113. Petition for removal from registry.** (1) Except as
23 otherwise provided in subsection (3) of this section, any person required
24 to register pursuant to section 16-22-103 or whose information is required
25 to be posted on the internet pursuant to section 16-22-111 may file a
26 petition with the court that issued the order of judgment for the conviction
27 that requires the person to register for an order ~~that discontinues~~ TO

1 DISCONTINUE the requirement for such registration or internet posting, or
2 both, as follows:

3 (d) If the person was required to register due to being placed on
4 a deferred judgment and sentence or a deferred adjudication for an
5 offense involving unlawful sexual behavior, after the successful
6 completion of the deferred judgment and sentence or deferred
7 adjudication and dismissal of the case, if the person prior to such time has
8 not been subsequently convicted of unlawful sexual behavior or of any
9 other offense, the underlying factual basis of which involved unlawful
10 sexual behavior AND THE COURT DID NOT ISSUE AN ORDER EITHER
11 CONTINUING THE DUTY TO REGISTER OR DISCONTINUING THE DUTY TO
12 REGISTER PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1.3) OF THIS
13 SECTION;

14 (e) If the person was younger than eighteen years of age at the
15 time of disposition or adjudication, after the successful completion of and
16 discharge from the sentence, if the person prior to such time has not been
17 subsequently convicted of unlawful sexual behavior or of any other
18 offense, the underlying factual basis of which involved unlawful sexual
19 behavior AND THE COURT DID NOT ISSUE AN ORDER EITHER CONTINUING
20 THE DUTY TO REGISTER OR DISCONTINUING THE DUTY TO REGISTER
21 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1.3) OF THIS SECTION. Any
22 person petitioning pursuant to this paragraph (e) may also petition for an
23 order removing his or her name from the sex offender registry. In
24 determining whether to grant the order, the court shall consider whether
25 the person is likely to commit a subsequent offense of or involving
26 unlawful sexual behavior. The court shall base its determination on
27 recommendations from the person's probation or community parole

1 officer, the person's treatment provider, and the prosecuting attorney for
2 the jurisdiction in which the person was tried and on the
3 recommendations included in the person's presentence investigation
4 report. In addition, the court shall consider any written or oral testimony
5 submitted by the victim of the offense for which the petitioner was
6 required to register. Notwithstanding the provisions of this subsection (1),
7 a juvenile who files a petition pursuant to this section may file the petition
8 with the court to which venue is transferred pursuant to section 19-2-105,
9 C.R.S., if any.

10 (1.3) (a) IF A PERSON IS ELIGIBLE TO PETITION TO DISCONTINUE HIS
11 OR HER DUTY TO REGISTER PURSUANT TO PARAGRAPH (d) OF SUBSECTION
12 (1) OF THIS SECTION, THE COURT, AT LEAST SIXTY DAYS BEFORE
13 DISMISSING THE CASE, SHALL NOTIFY EACH OF THE PARTIES DESCRIBED IN
14 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, THE PERSON, AND
15 THE VICTIM OF THE OFFENSE FOR WHICH THE PERSON WAS REQUIRED TO
16 REGISTER, IF THE VICTIM HAS REQUESTED NOTICE AND HAS PROVIDED
17 CURRENT CONTACT INFORMATION, THAT THE COURT WILL CONSIDER
18 WHETHER TO ORDER THAT THE PERSON MAY DISCONTINUE HIS OR HER
19 DUTY TO REGISTER WHEN THE COURT DISMISSES THE CASE AS A RESULT OF
20 THE PERSON'S SUCCESSFUL COMPLETION OF THE DEFERRED JUDGMENT AND
21 SENTENCE OR DEFERRED ADJUDICATION. THE COURT SHALL SET THE
22 MATTER FOR HEARING IF ANY OF THE PARTIES DESCRIBED IN PARAGRAPH
23 (a) OF SUBSECTION (2) OF THIS SECTION OR THE VICTIM OF THE OFFENSE
24 OBJECT, OR IF THE PERSON REQUESTS A HEARING. IF THE COURT ENTERS
25 AN ORDER DISCONTINUING THE PERSON'S DUTY TO REGISTER, THE PERSON
26 SHALL SEND A COPY OF THE ORDER TO EACH LOCAL LAW ENFORCEMENT
27 AGENCY WITH WHICH THE PERSON IS REGISTERED AND TO THE CBI. IF THE

1 VICTIM OF THE OFFENSE HAS REQUESTED NOTICE, THE COURT SHALL
2 NOTIFY THE VICTIM OF ITS DECISION EITHER TO CONTINUE OR DISCONTINUE
3 THE PERSON'S DUTY TO REGISTER.

4 (b) (I) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS
5 OR HER DUTY TO REGISTER PURSUANT TO PARAGRAPH (e) OF SUBSECTION
6 (1) OF THIS SECTION, THE COURT, AT LEAST SIXTY DAYS BEFORE
7 DISCHARGING THE JUVENILE'S SENTENCE, SHALL NOTIFY EACH OF THE
8 PARTIES DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS
9 SECTION, THE JUVENILE, AND THE VICTIM OF THE OFFENSE FOR WHICH THE
10 JUVENILE WAS REQUIRED TO REGISTER, IF THE VICTIM HAS REQUESTED
11 NOTICE AND HAS PROVIDED CURRENT CONTACT INFORMATION, THAT THE
12 COURT SHALL CONSIDER WHETHER TO ORDER THAT THE JUVENILE MAY
13 DISCONTINUE HIS OR HER DUTY TO REGISTER WHEN THE COURT
14 DISCHARGES THE JUVENILE'S SENTENCE. THE COURT SHALL SET THE
15 MATTER FOR HEARING IF ANY OF THE PARTIES DESCRIBED IN PARAGRAPH
16 (a) OF SUBSECTION (2) OF THIS SECTION OR THE VICTIM OF THE OFFENSE
17 OBJECT, OR IF THE JUVENILE REQUESTS A HEARING, AND SHALL CONSIDER
18 THE CRITERIA IN PARAGRAPH (e) OF SUBSECTION (1) IN DETERMINING
19 WHETHER TO CONTINUE OR DISCONTINUE THE DUTY TO REGISTER. IF THE
20 COURT ENTERS AN ORDER DISCONTINUING THE JUVENILE'S DUTY TO
21 REGISTER, THE DEPARTMENT OF HUMAN SERVICES SHALL SEND A COPY OF
22 THE ORDER TO EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE
23 JUVENILE IS REGISTERED, THE JUVENILE PAROLE BOARD, AND TO THE CBI.
24 IF THE VICTIM OF THE OFFENSE HAS REQUESTED NOTICE, THE COURT SHALL
25 NOTIFY THE VICTIM OF ITS DECISION EITHER TO CONTINUE OR DISCONTINUE
26 THE JUVENILE'S DUTY TO REGISTER.

27 (II) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS OR

1 HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF
2 THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF
3 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE
4 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES MAY PETITION THE
5 COURT TO SET A HEARING PURSUANT TO PARAGRAPH (e) OF SUBSECTION
6 (1) OF THIS SECTION AT LEAST SIXTY DAYS BEFORE THE JUVENILE IS
7 SCHEDULED TO APPEAR BEFORE THE JUVENILE PAROLE BOARD.

8 (III) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS
9 OR HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1)
10 OF THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF
11 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE
12 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES, PRIOR TO SETTING
13 THE MATTER FOR HEARING, SHALL MODIFY THE JUVENILE'S PAROLE PLAN
14 OR PAROLE HEARING TO ACKNOWLEDGE THE COURT ORDER OR PETITION
15 UNLESS IT IS ALREADY INCORPORATED IN THE PAROLE PLAN.

16 (2) (d) On receipt of a copy of an order discontinuing a petitioner's
17 duty to register: ~~as provided in paragraph (c) of this subsection (2):~~

18 SECTION 8. 18-1-202 (12), Colorado Revised Statutes, as
19 amended by Senate Bill 11-007, is amended to read:

20 18-1-202. Place of trial. (12) If a person commits the offense of
21 failure to register as a sex offender as provided in section 18-3-412.5, the
22 offense is committed and the offender may be tried IN THE COUNTY IN
23 WHICH THE OFFENDER WAS RELEASED FROM INCARCERATION FOR
24 COMMISSION OF THE OFFENSE REQUIRING REGISTRATION, in the county in
25 which the offender resides, in the county in which the offender completed
26 his or her last registration, or in the county in which the offender is
27 apprehended.

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SECTION 9. 18-1.3-1007 (1.5), Colorado Revised Statutes, is amended to read:

18-1.3-1007. Probation - intensive supervision program. (1.5)

In addition to the persons specified in subsection (1) of this section, the court ~~shall~~ MAY require any person convicted of felony failure to register as a sex offender, as described in section 18-3-412.5, and sentenced to probation to participate, as a condition of probation and until further order of the court, in the intensive supervision probation program established pursuant to this section.

SECTION 10. 18-3-412.5 (2) (b), Colorado Revised Statutes, is amended, and the said 18-3-412.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

18-3-412.5. Failure to register as a sex offender. (1.5) (a) IN

A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT:

(I) UNCONTROLLABLE CIRCUMSTANCES PREVENTED THE PERSON FROM COMPLYING;

(II) THE PERSON DID NOT CONTRIBUTE TO THE CREATION OF THE CIRCUMSTANCES IN RECKLESS DISREGARD OF THE REQUIREMENT TO COMPLY; AND

(III) THE PERSON COMPLIED AS SOON AS THE CIRCUMSTANCES CEASED TO EXIST.

(b) IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT TO THIS SUBSECTION (1.5), THE DEFENDANT SHALL PROVIDE NOTICE TO THE PROSECUTING ATTORNEY AS SOON AS PRACTICABLE, BUT NOT LATER THAN THIRTY DAYS PRIOR TO TRIAL, OF HIS OR HER NOTICE OF INTENT TO RELY

1 UPON THE AFFIRMATIVE DEFENSE. THE NOTICE SHALL INCLUDE A
2 DESCRIPTION OF THE UNCONTROLLABLE CIRCUMSTANCE OR
3 CIRCUMSTANCES AND THE DATES THE UNCONTROLLABLE CIRCUMSTANCES
4 BEGAN AND CEASED TO EXIST IN ADDITION TO THE NAMES AND ADDRESSES
5 OF ANY WITNESSES THE DEFENDANT PLANS TO CALL TO SUPPORT THE
6 AFFIRMATIVE DEFENSE. THE PROSECUTING ATTORNEY SHALL ADVISE THE
7 DEFENDANT OF THE NAMES AND ADDRESSES OF ANY ADDITIONAL
8 WITNESSES WHO MAY BE CALLED TO REFUTE SUCH AFFIRMATIVE DEFENSE
9 AS SOON AS PRACTICABLE AFTER THEIR NAMES BECOME KNOWN. UPON
10 THE REQUEST OF THE PROSECUTION, THE COURT SHALL FIRST RULE AS A
11 MATTER OF LAW WHETHER THE CLAIMED FACTS AND CIRCUMSTANCES
12 WOULD, IF ESTABLISHED, CONSTITUTE SUFFICIENT EVIDENCE TO SUPPORT
13 SUBMISSION TO THE JURY.

14 (2) (b) Any person convicted of felony failure to register as a sex
15 offender shall be sentenced pursuant to the provisions of section
16 18-1.3-401. If such person is sentenced to probation, the court ~~shall~~ MAY
17 require, as a condition of probation, that the person participate until
18 further order of the court in an intensive supervision probation program
19 established pursuant to section 18-1.3-1007. If such person is sentenced
20 to incarceration and subsequently released on parole, the parole board
21 ~~shall~~ MAY require, as a condition of parole, that the person participate in
22 an intensive supervision parole program established pursuant to section
23 18-1.3-1005.

24 **SECTION 11. Effective date.** This act shall take effect upon
25 passage; except that section 9 of this act shall take effect when Senate Bill
26 11-007 takes effect.

27 **SECTION 12. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.