

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

**PREAMENDED**

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

LLS NO. 11-0770.01 Michael Dohr

**HOUSE BILL 11-1278**

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**HOUSE SPONSORSHIP**

**Gardner B.,**

**SENATE SPONSORSHIP**

**Morse,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING SEX OFFENDER REGISTRATION.**

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**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.*

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.

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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 **SECTION 4.** 16-22-102 (5.7), Colorado Revised Statutes, is  
13 amended, and the said 16-22-102 is further amended BY THE  
14 ADDITION OF A NEW SUBSECTION, to read:

15 **16-22-102. Definitions.** As used in this article, unless the context  
16 otherwise requires:

17 (5.7) (a) "Residence" means a place or dwelling that is used,  
18 intended to be used, or usually used for habitation by a person who is  
19 required to register pursuant to section 16-22-103. "Residence" may  
20 include, but is not limited to, a temporary shelter or institution, if the  
21 owner of the shelter or institution consents to the person utilizing the  
22 shelter or institution as his or her registered address as required by section  
23 16-22-106 (4) or 16-22-107 (4) (a) and if the residence of the person at  
24 the shelter or institution is capable of verification as required by section  
25 16-22-109 (3.5). A person may establish multiple residences by residing  
26 in more than one place or dwelling.

27 (b) "RESIDENCE" FOR A TRANSIENT MEANS THE LOCATION WHERE

1 THE TRANSIENT CAN BE FOUND FOR A SIGNIFICANT PERIOD OF EACH DAY.

2 (8.5) "TRANSIENT" MEANS A PERSON WHO HAS NO RESIDENCE.

3 **SECTION 5.** 16-22-103 (1) (b), Colorado Revised Statutes, is  
4 amended to read:

5 **16-22-103. Sex offender registration - required - applicability**  
6 **- exception.** (1) Effective July 1, 1998, the following persons shall be  
7 required to register pursuant to the provisions of section 16-22-108 and  
8 shall be subject to the requirements and other provisions specified in this  
9 article:

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

17 **SECTION 6.** 16-22-106 (3) (a), Colorado Revised Statutes, is  
18 amended to read:

19 **16-22-106. Duties - probation department - community**  
20 **corrections administrator - court personnel - jail personnel - notice.**

21 (3) (a) (I) IF A PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO  
22 SECTION 16-22-103 IS HELD FOR MORE THAN FIVE BUSINESS DAYS IN A  
23 COUNTY JAIL PENDING COURT DISPOSITION FOR ANY OFFENSE, THE SHERIFF  
24 OF THE COUNTY IN WHICH THE COUNTY JAIL IS LOCATED, OR HIS OR HER  
25 DESIGNEE, SHALL TRANSMIT TO THE LOCAL LAW ENFORCEMENT AGENCY  
26 OF THE JURISDICTION IN WHICH THE PERSON WAS LAST REGISTERED AND  
27 TO THE CBI CONFIRMATION OF THE PERSON'S REGISTRATION. THE

1 CONFIRMATION SHALL BE TRANSMITTED ON A STANDARDIZED FORM  
2 PROVIDED BY THE CBI, AND SHALL INCLUDE THE ADDRESS OR ADDRESSES  
3 AT WHICH THE PERSON WILL RESIDE WHILE IN CUSTODY OF THE COUNTY  
4 JAIL, THE PERSON'S DATE OF BIRTH, A CURRENT PHOTOGRAPH OF THE  
5 PERSON, AND THE PERSON'S FINGERPRINTS.

6 (H) (II) If a person who is required to register pursuant to section  
7 16-22-103 is sentenced to a county jail FOR ANY OFFENSE, the sheriff of  
8 the county in which the county jail is located, or his or her designee, as  
9 soon as possible following sentencing, shall transmit to THE LOCAL LAW  
10 ENFORCEMENT AGENCY OF THE JURISDICTION IN WHICH THE PERSON WAS  
11 LAST REGISTERED AND TO the CBI confirmation of the person's  
12 registration. THE CONFIRMATION SHALL BE TRANSMITTED on a  
13 standardized form provided by the CBI, ~~using~~ AND SHALL INCLUDE the  
14 address or addresses at which the person will reside while in custody of  
15 the county jail, ~~and including~~ the person's date of birth, a current  
16 photograph of the person, and the person's fingerprints.

17 (H) (III) The provisions of this paragraph (a) shall apply to persons  
18 sentenced on or after January 1, 2005.

19 **SECTION 7.** 16-22-108 (1) (b), the introductory portion to  
20 16-22-108 (3), and 16-22-108 (3) (a.5), (4), and (7), Colorado Revised  
21 Statutes, are amended to read:

22 **16-22-108. Registration - procedure - frequency - place -**  
23 **change of address - fee.** (1) (b) Except as otherwise provided in  
24 paragraph (d) of this subsection (1), each person who is required to  
25 register pursuant to section 16-22-103 shall reregister ~~on~~ WITHIN FIVE  
26 BUSINESS DAYS BEFORE OR AFTER the person's first birthday following  
27 initial registration and annually ~~on~~ WITHIN FIVE BUSINESS DAYS BEFORE

1 OR AFTER the person's birthday thereafter. ~~If a person's birthday falls on~~  
2 ~~a Saturday, Sunday, or holiday, the person shall reregister on the first~~  
3 ~~business day following his or her birthday.~~ Such person shall reregister  
4 pursuant to this paragraph (b) with the local law enforcement agency of  
5 each jurisdiction in which the person resides ~~on~~ WITHIN FIVE BUSINESS  
6 DAYS BEFORE OR AFTER his or her birthday, in the manner provided in  
7 paragraph (a) of this subsection (1).

8 (3) Any person who is required to register pursuant to section  
9 16-22-103 shall be required to register WITHIN FIVE BUSINESS DAYS  
10 BEFORE OR AFTER each time such person:

11 (a.5) Changes the address at which a VEHICLE, trailer, or motor  
12 home is located, if the VEHICLE, trailer, or motor home is the person's  
13 place of residence, regardless of whether the new address is within the  
14 jurisdiction of the law enforcement agency with which such person  
15 previously registered;

16 (4) (a) (I) Any time a person who is required to register pursuant  
17 to section 16-22-103 ceases to reside at an address, ~~the person shall notify~~  
18 ~~the local law enforcement agency of the jurisdiction in which said address~~  
19 ~~is located by completing a written registration cancellation form,~~  
20 ~~available from the local law enforcement agency.~~ At a minimum, the  
21 ~~registration cancellation form shall indicate~~ THE PERSON SHALL REGISTER  
22 WITH THE LOCAL LAW ENFORCEMENT AGENCY FOR HIS OR HER NEW  
23 ADDRESS AND INCLUDE the address at which the person will no longer  
24 reside and all addresses at which the person will reside. The person shall  
25 file the NEW registration ~~cancellation~~ form within five business days after  
26 ceasing to reside at an address. ~~A local law enforcement agency that~~  
27 ~~receives a registration cancellation form~~ THE LOCAL ENFORCEMENT

1 AGENCY THAT RECEIVES THE NEW REGISTRATION FORM SHALL INFORM THE  
2 PREVIOUS JURISDICTION OF THE CANCELLATION OF THAT REGISTRATION  
3 AND shall electronically notify the CBI of the registration cancellation.  
4 ~~If the person moves to another state, the CBI shall promptly notify the~~  
5 ~~agency responsible for registration in the new state.~~

6 (II) ANY TIME A PERSON WHO IS REQUIRED TO REGISTER PURSUANT  
7 TO SECTION 16-22-103 CEASES TO RESIDE AT AN ADDRESS AND MOVES TO  
8 ANOTHER STATE, THE PERSON SHALL NOTIFY THE LOCAL LAW  
9 ENFORCEMENT AGENCY OF THE JURISDICTION IN WHICH SAID ADDRESS IS  
10 LOCATED BY COMPLETING A WRITTEN REGISTRATION CANCELLATION  
11 FORM, AVAILABLE FROM THE LOCAL LAW ENFORCEMENT AGENCY. AT A  
12 MINIMUM, THE REGISTRATION CANCELLATION FORM SHALL INDICATE THE  
13 ADDRESS AT WHICH THE PERSON WILL NO LONGER RESIDE AND ALL  
14 ADDRESSES AT WHICH THE PERSON WILL RESIDE. THE PERSON SHALL FILE  
15 THE REGISTRATION CANCELLATION FORM WITHIN FIVE BUSINESS DAYS  
16 AFTER CEASING TO RESIDE AT AN ADDRESS. A LOCAL LAW ENFORCEMENT  
17 AGENCY THAT RECEIVES A REGISTRATION CANCELLATION FORM SHALL  
18 ELECTRONICALLY NOTIFY THE CBI OF THE REGISTRATION CANCELLATION.  
19 IF THE PERSON MOVES TO ANOTHER STATE, THE CBI SHALL PROMPTLY  
20 NOTIFY THE AGENCY RESPONSIBLE FOR REGISTRATION IN THE OTHER  
21 STATE.

22 (b) If a person fails to submit the NEW REGISTRATION FORM OR  
23 registration cancellation form as required in paragraph (a) of this  
24 subsection (4) and the address at which the person is no longer residing  
25 is a group facility, officials at such facility may provide information  
26 concerning the person's cessation of residency to the local law  
27 enforcement agency of the jurisdiction in which the address is located.



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

14 (7) (a) A local law enforcement agency may establish a  
15 registration fee to be paid by persons registering and reregistering  
16 ANNUALLY OR QUARTERLY with the local law enforcement agency  
17 pursuant to the provisions of this section. The amount of the fee shall  
18 reflect the actual direct costs incurred by the local law enforcement  
19 agency in implementing the provisions of this article, BUT SHALL NOT  
20 EXCEED TWENTY-FIVE DOLLARS. THE LOCAL LAW ENFORCEMENT AGENCY  
21 MAY WAIVE THE FEE FOR AN INDIGENT PERSON. FOR ALL OTHER PERSONS,  
22 THE LOCAL LAW ENFORCEMENT AGENCY MAY PURSUE PAYMENT OF THE  
23 FEE THROUGH A CIVIL COLLECTION PROCESS OR ANY OTHER LAWFUL  
24 MEANS IF THE PERSON IS UNABLE TO PAY AT THE TIME OF REGISTRATION.  
25 A LOCAL LAW ENFORCEMENT AGENCY SHALL ACCEPT A TIMELY  
26 REGISTRATION IN ALL CIRCUMSTANCES EVEN IF THE PERSON IS UNABLE TO  
27 PAY THE FEE AT THE TIME OF REGISTRATION.

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

4 **SECTION 8.** The introductory portion to 16-22-113 (1),  
5 16-22-113 (1) (d) and (1) (e), and the introductory portion to 16-22-113  
6 (2) (d), Colorado Revised Statutes, are amended, and the said 16-22-113  
7 is further amended BY THE ADDITION OF A NEW SUBSECTION, to  
8 read:

9 **16-22-113. Petition for removal from registry.** (1) Except as  
10 otherwise provided in subsection (3) of this section, any person required  
11 to register pursuant to section 16-22-103 or whose information is required  
12 to be posted on the internet pursuant to section 16-22-111 may file a  
13 petition with the court that issued the order of judgment for the conviction  
14 that requires the person to register for an order ~~that discontinues~~ TO  
15 DISCONTINUE the requirement for such registration or internet posting, or  
16 both, as follows:

17 (d) If the person was required to register due to being placed on  
18 a deferred judgment and sentence or a deferred adjudication for an  
19 offense involving unlawful sexual behavior, after the successful  
20 completion of the deferred judgment and sentence or deferred  
21 adjudication and dismissal of the case, if the person prior to such time has  
22 not been subsequently convicted of unlawful sexual behavior or of any  
23 other offense, the underlying factual basis of which involved unlawful  
24 sexual behavior AND THE COURT DID NOT ISSUE AN ORDER EITHER  
25 CONTINUING THE DUTY TO REGISTER OR DISCONTINUING THE DUTY TO  
26 REGISTER PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1.3) OF THIS  
27 SECTION;

1 (e) If the person was younger than eighteen years of age at the  
2 time of disposition or adjudication, after the successful completion of and  
3 discharge from the sentence, if the person prior to such time has not been  
4 subsequently convicted of unlawful sexual behavior or of any other  
5 offense, the underlying factual basis of which involved unlawful sexual  
6 behavior AND THE COURT DID NOT ISSUE AN ORDER EITHER CONTINUING  
7 THE DUTY TO REGISTER OR DISCONTINUING THE DUTY TO REGISTER  
8 PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1.3) OF THIS SECTION. Any  
9 person petitioning pursuant to this paragraph (e) may also petition for an  
10 order removing his or her name from the sex offender registry. In  
11 determining whether to grant the order, the court shall consider whether  
12 the person is likely to commit a subsequent offense of or involving  
13 unlawful sexual behavior. The court shall base its determination on  
14 recommendations from the person's probation or community parole  
15 officer, the person's treatment provider, and the prosecuting attorney for  
16 the jurisdiction in which the person was tried and on the  
17 recommendations included in the person's presentence investigation  
18 report. In addition, the court shall consider any written or oral testimony  
19 submitted by the victim of the offense for which the petitioner was  
20 required to register. Notwithstanding the provisions of this subsection (1),  
21 a juvenile who files a petition pursuant to this section may file the petition  
22 with the court to which venue is transferred pursuant to section 19-2-105,  
23 C.R.S., if any.

24 (1.3) (a) IF A PERSON IS ELIGIBLE TO PETITION TO DISCONTINUE HIS  
25 OR HER DUTY TO REGISTER PURSUANT TO PARAGRAPH (d) OF SUBSECTION  
26 (1) OF THIS SECTION, THE COURT, AT LEAST SIXTY DAYS BEFORE  
27 DISMISSING THE CASE, SHALL NOTIFY EACH OF THE PARTIES DESCRIBED IN

1 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, THE PERSON, AND  
2 THE VICTIM OF THE OFFENSE FOR WHICH THE PERSON WAS REQUIRED TO  
3 REGISTER, IF THE VICTIM HAS REQUESTED NOTICE AND HAS PROVIDED  
4 CURRENT CONTACT INFORMATION, THAT THE COURT WILL CONSIDER  
5 WHETHER TO ORDER THAT THE PERSON MAY DISCONTINUE HIS OR HER  
6 DUTY TO REGISTER WHEN THE COURT DISMISSES THE CASE AS A RESULT OF  
7 THE PERSON'S SUCCESSFUL COMPLETION OF THE DEFERRED JUDGMENT AND  
8 SENTENCE OR DEFERRED ADJUDICATION. THE COURT SHALL SET THE  
9 MATTER FOR HEARING IF ANY OF THE PARTIES DESCRIBED IN PARAGRAPH  
10 (a) OF SUBSECTION (2) OF THIS SECTION OR THE VICTIM OF THE OFFENSE  
11 OBJECT, OR IF THE PERSON REQUESTS A HEARING. IF THE COURT ENTERS  
12 AN ORDER DISCONTINUING THE PERSON'S DUTY TO REGISTER, THE PERSON  
13 SHALL SEND A COPY OF THE ORDER TO EACH LOCAL LAW ENFORCEMENT  
14 AGENCY WITH WHICH THE PERSON IS REGISTERED AND TO THE CBI. IF THE  
15 VICTIM OF THE OFFENSE HAS REQUESTED NOTICE, THE COURT SHALL  
16 NOTIFY THE VICTIM OF ITS DECISION EITHER TO CONTINUE OR DISCONTINUE  
17 THE PERSON'S DUTY TO REGISTER.

18 (b) (I) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS  
19 OR HER DUTY TO REGISTER PURSUANT TO PARAGRAPH (e) OF SUBSECTION  
20 (1) OF THIS SECTION, THE COURT, AT LEAST SIXTY DAYS BEFORE  
21 DISCHARGING THE JUVENILE'S SENTENCE, SHALL NOTIFY EACH OF THE  
22 PARTIES DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS  
23 SECTION, THE JUVENILE, AND THE VICTIM OF THE OFFENSE FOR WHICH THE  
24 JUVENILE WAS REQUIRED TO REGISTER, IF THE VICTIM HAS REQUESTED  
25 NOTICE AND HAS PROVIDED CURRENT CONTACT INFORMATION, THAT THE  
26 COURT SHALL CONSIDER WHETHER TO ORDER THAT THE JUVENILE MAY  
27 DISCONTINUE HIS OR HER DUTY TO REGISTER WHEN THE COURT

1 DISCHARGES THE JUVENILE'S SENTENCE. THE COURT SHALL SET THE  
2 MATTER FOR HEARING IF ANY OF THE PARTIES DESCRIBED IN PARAGRAPH  
3 (a) OF SUBSECTION (2) OF THIS SECTION OR THE VICTIM OF THE OFFENSE  
4 OBJECT, OR IF THE JUVENILE REQUESTS A HEARING, AND SHALL CONSIDER  
5 THE CRITERIA IN PARAGRAPH (e) OF SUBSECTION (1) IN DETERMINING  
6 WHETHER TO CONTINUE OR DISCONTINUE THE DUTY TO REGISTER. IF THE  
7 COURT ENTERS AN ORDER DISCONTINUING THE JUVENILE'S DUTY TO  
8 REGISTER, THE DEPARTMENT OF HUMAN SERVICES SHALL SEND A COPY OF  
9 THE ORDER TO EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE  
10 JUVENILE IS REGISTERED, THE JUVENILE PAROLE BOARD, AND TO THE CBI.  
11 IF THE VICTIM OF THE OFFENSE HAS REQUESTED NOTICE, THE COURT SHALL  
12 NOTIFY THE VICTIM OF ITS DECISION EITHER TO CONTINUE OR DISCONTINUE  
13 THE JUVENILE'S DUTY TO REGISTER.

14 (II) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS OR  
15 HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1) OF  
16 THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF  
17 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE  
18 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES MAY PETITION THE  
19 COURT TO SET A HEARING PURSUANT TO PARAGRAPH (e) OF SUBSECTION  
20 (1) OF THIS SECTION AT LEAST SIXTY DAYS BEFORE THE JUVENILE IS  
21 SCHEDULED TO APPEAR BEFORE THE JUVENILE PAROLE BOARD.

22 (III) IF A JUVENILE IS ELIGIBLE TO PETITION TO DISCONTINUE HIS  
23 OR HER REGISTRATION PURSUANT TO PARAGRAPH (e) OF SUBSECTION (1)  
24 OF THIS SECTION AND IS UNDER THE CUSTODY OF THE DEPARTMENT OF  
25 HUMAN SERVICES AND YET TO BE RELEASED ON PAROLE BY THE JUVENILE  
26 PAROLE BOARD, THE DEPARTMENT OF HUMAN SERVICES, PRIOR TO SETTING  
27 THE MATTER FOR HEARING, SHALL MODIFY THE JUVENILE'S PAROLE PLAN

1 OR PAROLE HEARING TO ACKNOWLEDGE THE COURT ORDER OR PETITION  
2 UNLESS IT IS ALREADY INCORPORATED IN THE PAROLE PLAN.

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

5 **SECTION 9.** 18-1-202 (12), Colorado Revised Statutes, is  
6 amended to read:

7 **18-1-202. Place of trial.** (12) If a person commits the offense of  
8 failure to register as a sex offender as provided in section 18-3-412.5, the  
9 offense is committed and the offender may be tried in the county in which  
10 the offender was released from incarceration for commission of the  
11 offense requiring registration or in the county in which the offender  
12 resides, THE COUNTY IN WHICH AN OFFENDER COMPLETED HIS OR HER LAST  
13 REGISTRATION, or in the county in which the offender is apprehended.

14 **SECTION 10.** 18-1.3-1007 (1.5), Colorado Revised Statutes, is  
15 amended to read:

16 **18-1.3-1007. Probation - intensive supervision program.** (1.5)  
17 In addition to the persons specified in subsection (1) of this section, the  
18 court shall MAY require any person convicted of felony failure to register  
19 as a sex offender, as described in section 18-3-412.5, and sentenced to  
20 probation to participate, as a condition of probation and until further order  
21 of the court, in the intensive supervision probation program established  
22 pursuant to this section.

23 **SECTION 11.** 18-3-412.5 (2) (b), Colorado Revised Statutes, is  
24 amended, and the said 18-3-412.5 is further amended BY THE  
25 ADDITION OF A NEW SUBSECTION, to read:

26 **18-3-412.5. Failure to register as a sex offender.** (1.5) (a) IN  
27 A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS AN AFFIRMATIVE

1 DEFENSE THAT:

2 (I) UNCONTROLLABLE CIRCUMSTANCES PREVENTED THE PERSON  
3 FROM COMPLYING;

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

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

9 (b) IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT TO  
10 THIS SUBSECTION (1.5), THE DEFENDANT SHALL PROVIDE NOTICE TO THE  
11 PROSECUTING ATTORNEY AS SOON AS PRACTICABLE, BUT NOT LATER THAN  
12 THIRTY DAYS PRIOR TO TRIAL, OF HIS OR HER NOTICE OF INTENT TO RELY  
13 UPON THE AFFIRMATIVE DEFENSE. THE NOTICE SHALL INCLUDE A  
14 DESCRIPTION OF THE UNCONTROLLABLE CIRCUMSTANCE OR  
15 CIRCUMSTANCES AND THE DATES THE UNCONTROLLABLE CIRCUMSTANCES  
16 BEGAN AND CEASED TO EXIST IN ADDITION TO THE NAMES AND ADDRESSES  
17 OF ANY WITNESSES THE DEFENDANT PLANS TO CALL TO SUPPORT THE  
18 AFFIRMATIVE DEFENSE. THE PROSECUTING ATTORNEY SHALL ADVISE THE  
19 DEFENDANT OF THE NAMES AND ADDRESSES OF ANY ADDITIONAL  
20 WITNESSES WHO MAY BE CALLED TO REFUTE SUCH AFFIRMATIVE DEFENSE  
21 AS SOON AS PRACTICABLE AFTER THEIR NAMES BECOME KNOWN. UPON  
22 THE REQUEST OF THE PROSECUTION, THE COURT SHALL FIRST RULE AS A  
23 MATTER OF LAW WHETHER THE CLAIMED FACTS AND CIRCUMSTANCES  
24 WOULD, IF ESTABLISHED, CONSTITUTE SUFFICIENT EVIDENCE TO SUPPORT  
25 SUBMISSION TO THE JURY.

26 (2) (b) Any person convicted of felony failure to register as a sex  
27 offender shall be sentenced pursuant to the provisions of section

1 18-1.3-401. If such person is sentenced to probation, the court ~~shall~~ MAY  
2 require, as a condition of probation, that the person participate until  
3 further order of the court in an intensive supervision probation program  
4 established pursuant to section 18-1.3-1007. If such person is sentenced  
5 to incarceration and subsequently released on parole, the parole board  
6 ~~shall~~ MAY require, as a condition of parole, that the person participate in  
7 an intensive supervision parole program established pursuant to section  
8 18-1.3-1005.

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