

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

PREAMENDED

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

LLS NO. 05-0388.01 Michael Dohr

HOUSE BILL 05-1035

HOUSE SPONSORSHIP

Hall,

SENATE SPONSORSHIP

Williams,

House Committees

Senate Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING PUBLIC ACCESS TO INFORMATION REGARDING PERSONS**

102 **REQUIRED TO REGISTER AS SEX OFFENDERS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Eliminates the jurisdictional and "need-to-know" restrictions that limit the Colorado bureau of investigation's and local law enforcement agencies' ability to release sex offender information to a requesting person. Gives a local law enforcement agency discretion whether to release information regarding a person registered on the sex offender registry to a person not residing in the local law enforcement agency's jurisdiction.

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.*

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

2 **SECTION 1.** 16-22-110 (6), Colorado Revised Statutes, is
3 amended to read:

4 **16-22-110. Colorado sex offender registry - creation -**
5 **maintenance - release of information.** (6) (a) The general assembly
6 hereby recognizes the need to balance the expectations of persons
7 convicted of offenses involving unlawful sexual behavior and the public's
8 need to adequately protect themselves and their children from these
9 persons, as expressed in section 16-22-112 (1). The general assembly
10 declares, however, that, in making information concerning persons
11 convicted of offenses involving unlawful sexual behavior available to the
12 public, ~~on a limited basis,~~ it is not the general assembly's intent that the
13 information be used to inflict retribution or additional punishment on any
14 person convicted of unlawful sexual behavior or of another offense, the
15 underlying factual basis of which involves unlawful sexual behavior.

16 (b) Pursuant to a request for a criminal history check under the
17 provisions of part 3 of article 72 of title 24, C.R.S., the CBI may inform
18 the requesting party as to whether the person who is the subject of the
19 criminal history check is on the sex offender registry.

20 (c) A person may request from the CBI a list of ~~those~~ persons on
21 the sex offender registry. ~~who reside within the same local law~~
22 ~~enforcement agency jurisdiction as the requesting person or in local law~~
23 ~~enforcement agency jurisdictions contiguous thereto.~~

24 (d) ~~Upon a demonstration of a need to know, a person may~~
25 ~~request from the CBI a list of those persons on the sex offender registry~~
26 ~~who reside in geographic areas other than those specified in paragraph (c)~~

1 of this subsection (6). The executive director of the department of public
2 safety shall promulgate rules to define "need to know" for purposes of
3 this subsection (6) and specify how such need may be demonstrated. In
4 determining whether a person has demonstrated a need to know, the CBI,
5 at a minimum, shall consider the nature and extent of the person's
6 presence or the presence of the person's immediate family in the
7 geographic areas in which the persons on the sex offender registry reside.

8 (e) Any person requesting information pursuant to paragraph (c)
9 or (d) of this subsection (6) shall show proper identification. or other
10 proof of residence.

11 (f) Information released pursuant to this subsection (6), at a
12 minimum, shall include the name, address or addresses, and aliases of the
13 registrant; the registrant's date of birth; a photograph of the registrant, if
14 requested and readily available; and the conviction resulting in the
15 registrant being required to register pursuant to this article. [REDACTED]

16 [REDACTED] Information concerning victims shall not be released
17 pursuant to this section.

18 **SECTION 2.** 16-22-112, Colorado Revised Statutes, is amended
19 to read:

20 **16-22-112. Release of information - law enforcement agencies.**

21 (1) The general assembly finds that persons convicted of offenses
22 involving unlawful sexual behavior have a reduced expectation of privacy
23 because of the public's interest in public safety. The general assembly
24 further finds that the public must have ~~limited~~ access to information
25 concerning persons convicted of offenses involving unlawful sexual
26 behavior that is collected pursuant to this article to allow them to
27 adequately protect themselves and their children from these persons. The

1 general assembly declares, however, that, in making this information
2 available ~~on a limited basis~~ to the public, as provided in this section and
3 section 16-22-110 (6), it is not the general assembly's intent that the
4 information be used to inflict retribution or additional punishment on any
5 person convicted of unlawful sexual behavior or of another offense, the
6 underlying factual basis of which involves unlawful sexual behavior.

7 (2) A local law enforcement agency shall release information
8 regarding any person registered with the local law enforcement agency
9 pursuant to this article to any person residing within the local law
10 enforcement agency's jurisdiction. ~~Any person requesting information~~
11 ~~pursuant to this subsection (2) shall show proper identification or other~~
12 ~~proof of residence.~~ IN ADDITION, THE LOCAL LAW ENFORCEMENT AGENCY
13 MAY POST THE INFORMATION ON THE LAW ENFORCEMENT AGENCY'S
14 WEBSITE; EXCEPT THAT A LOCAL LAW ENFORCEMENT AGENCY MAY ONLY
15 POST THE SEX OFFENDER REGISTRATION INFORMATION OF A JUVENILE IF
16 THE JUVENILE IS A SEXUALLY VIOLENT PREDATOR, WAS SENTENCED AS OR
17 FOUND TO BE A SEXUALLY VIOLENT PREDATOR IN ANOTHER STATE, HAS
18 BEEN ADJUDICATED FOR TWO OR MORE OFFENSES INVOLVING UNLAWFUL
19 SEXUAL BEHAVIOR OR A CRIME OF VIOLENCE AS DEFINED IN SECTION
20 18-1.3-406, C.R.S., OR WAS REQUIRED TO REGISTER PURSUANT TO SECTION
21 16-22-103 BECAUSE HE OR SHE WAS ADJUDICATED FOR AN OFFENSE THAT
22 WOULD HAVE BEEN A FELONY IF COMMITTED BY AN ADULT AND HAS
23 FAILED TO REGISTER AS REQUIRED BY SECTION 16-22-108.

24 (3) (a) ~~A local law enforcement agency shall submit to the CBI a~~
25 ~~request from any person residing within the local law enforcement~~
26 ~~agency's jurisdiction for the release of information concerning persons~~
27 ~~required to register pursuant to this article who reside within any law~~

1 enforcement jurisdiction contiguous to the jurisdictional boundaries of the
2 local law enforcement agency.

3 (b) ~~When necessary for public protection and upon demonstration~~
4 ~~of a need to know, a local law enforcement agency shall submit to the~~
5 ~~CBI a request from any person residing within the local law enforcement~~
6 ~~agency's jurisdiction for the release of information concerning persons~~
7 ~~required to register pursuant to this article who reside outside of the~~
8 ~~geographic areas described in subsection (2) of this section or paragraph~~
9 ~~(a) of this subsection (3). In determining whether the person has~~
10 ~~demonstrated a need to know, the local law enforcement agency shall, at~~
11 ~~a minimum, consider the nature and extent of the person's presence or the~~
12 ~~presence of the person's immediate family in the local law enforcement~~
13 ~~agency's jurisdiction. AT ITS DISCRETION, A LOCAL LAW ENFORCEMENT~~
14 ~~AGENCY MAY RELEASE INFORMATION REGARDING ANY PERSON~~
15 ~~REGISTERED WITH THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO~~
16 ~~THIS ARTICLE TO ANY PERSON WHO DOES NOT RESIDE WITHIN THE LOCAL~~
17 ~~LAW ENFORCEMENT AGENCY'S JURISDICTION OR MAY POST THE~~
18 ~~INFORMATION ON THE LAW ENFORCEMENT AGENCY'S WEBSITE; EXCEPT~~
19 ~~THAT A LOCAL LAW ENFORCEMENT AGENCY MAY ONLY POST THE SEX~~
20 ~~OFFENDER REGISTRATION INFORMATION OF A JUVENILE IF THE JUVENILE IS~~
21 ~~A SEXUALLY VIOLENT PREDATOR, WAS SENTENCED AS OR FOUND TO BE A~~
22 ~~SEXUALLY VIOLENT PREDATOR IN ANOTHER STATE, HAS BEEN~~
23 ~~ADJUDICATED FOR TWO OR MORE OFFENSES INVOLVING UNLAWFUL SEXUAL~~
24 ~~BEHAVIOR OR A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406,~~
25 ~~C.R.S., OR WAS REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103~~
26 ~~BECAUSE HE OR SHE WAS ADJUDICATED FOR AN OFFENSE THAT WOULD~~
27 ~~HAVE BEEN A FELONY IF COMMITTED BY AN ADULT AND HAS FAILED TO~~

1 REGISTER AS REQUIRED BY SECTION 16-22-108. IF A LOCAL LAW
2 ENFORCEMENT AGENCY DOES NOT ELECT TO RELEASE INFORMATION
3 REGARDING ANY PERSON REGISTERED WITH THE LOCAL LAW
4 ENFORCEMENT AGENCY TO A PERSON NOT RESIDING WITHIN THE LOCAL
5 LAW ENFORCEMENT AGENCY'S JURISDICTION, THE LOCAL LAW
6 ENFORCEMENT AGENCY MAY SUBMIT A REQUEST FROM THE PERSON TO THE
7 CBI.

8 (c) ~~Any person requesting information pursuant to this subsection~~
9 ~~(3) shall show proper identification or other proof of residence.~~

10 (d) Upon receipt of a request for information from a law
11 enforcement agency pursuant to this subsection (3), the CBI shall mail the
12 requested information to the person making the request. ~~or, at the option~~
13 ~~of the law enforcement agency, transmit the information back to the law~~
14 ~~enforcement agency, which may release such information to the person~~
15 ~~making the request.~~

16 (4) Information released pursuant to this section, at a minimum,
17 shall include the name, address or addresses, and aliases of the registrant;
18 the registrant's date of birth; a photograph of the registrant, if requested
19 and readily available; and a history of the convictions of unlawful sexual
20 behavior resulting in the registrant being required to register pursuant to
21 this article.

22 Information concerning victims shall not be released pursuant to this
23 section.

24 (5) Any information released pursuant to this section shall include
25 in writing the following statement:

26 The Colorado sex offender registry includes only those
27 persons who have been required by law to register and who

1 are in compliance with the sex offender registration laws.
2 Persons should not rely solely on the sex offender registry
3 as a safeguard against perpetrators of sexual assault in their
4 communities. The crime for which a person is convicted
5 may not accurately reflect the level of risk.

6 **SECTION 3. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.