

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 06-0024.01 Julie Pelegrin

HOUSE BILL 06-1090

HOUSE SPONSORSHIP

Green,

SENATE SPONSORSHIP

Tupa,

House Committees
Judiciary

Senate Committees
State, Veterans & Military Affairs

A BILL FOR AN ACT

101 **CONCERNING UNLAWFUL SEXUAL BEHAVIOR.**

Bill Summary

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

Section 1: Requires a presentence report prepared for a sex offender to include, where appropriate, the results of the risk assessment screening. Requires each person convicted as a sex offender to receive a presentence report.

Sections 2 and 3: Adds conforming language to specify that a person identified as a sexually violent predator may be subject to community notification.

Sections 4-7: Removes the civil and criminal statutes of limitations for sex offenses and sexual offenses against children that are

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
February 23, 2006

HOUSE
Amended 2nd Reading
February 22, 2006

committed by adults. Makes the extended statute of limitations for civil actions applicable to actions alleging vicarious liability. Removes the limitation on damages for actions brought after a specified period. Makes conforming amendments.

Section 8: Requires a local law enforcement agency that chooses to post sex offender registration information on its website to include on the website information to assist members of the public in protecting themselves from unlawful sexual behavior or a link to the information on the Colorado bureau of investigation website. Instructs the local law enforcement agency to work with the sex offender management board and sexual assault victims' advocacy groups in preparing the information.

Section 9: Directs the department of corrections and the judicial department to jointly submit to the judiciary committees and the governor an annual report concerning sexually violent predators. Specifies the contents of the report.

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

2 **SECTION 1.** 16-11-102 (1) (b), Colorado Revised Statutes, is
3 amended to read:

4 **16-11-102. Presentence or probation investigation.** (1)(b) ~~Any~~
5 EACH presentence report prepared regarding ~~any~~ A sex offender, as
6 defined in section 16-11.7-102 (2), with respect to any offense committed
7 on or after January 1, 1996, shall contain the results of an evaluation and
8 identification conducted pursuant to article 11.7 of this title. IN
9 ADDITION, THE PRESENTENCE REPORT SHALL INCLUDE, WHERE
10 APPROPRIATE AS PROVIDED IN SECTION 18-3-414.5, C.R.S., THE RESULTS
11 OF THE RISK ASSESSMENT SCREENING DEVELOPED PURSUANT TO SECTION
12 16-11.7-103 (4) (c.5). NOTWITHSTANDING THE PROVISIONS OF
13 SUBSECTION (4) OF THIS SECTION, A PRESENTENCE REPORT SHALL BE
14 PREPARED FOR EACH PERSON CONVICTED AS A SEX OFFENDER, AS DEFINED
15 IN SECTION 16-11.7-102 (2), AND THE COURT MAY NOT DISPENSE WITH
16 SAID PRESENTENCE EXAMINATION AND REPORT.

17 **SECTION 2.** 16-11.7-103 (4) (c.5), Colorado Revised Statutes,

1 is amended to read:

2 **16-11.7-103. Sex offender management board - creation -**
3 **duties - repeal.** (4) The board shall carry out the following duties:

4 (c.5) On or before January 1, 1999, the board shall consult on and
5 approve the risk assessment screening instrument developed by the
6 division of criminal justice to assist the sentencing court in determining
7 the likelihood that an offender would commit one or more of the offenses
8 specified in section 18-3-414.5 (1) (a) (II), C.R.S., under the
9 circumstances described in section 18-3-414.5 (1) (a) (III), C.R.S. No
10 state general fund moneys shall be used to develop the risk assessment
11 screening instrument. In carrying out this duty, the board shall consider
12 sex offender risk assessment research and shall consider as one element
13 the risk posed by a sex offender who suffers from a mental abnormality,
14 psychosis, or personality disorder that makes the person more likely to
15 engage in sexually violent predatory offenses. For purposes of this
16 subsection (4) only, "mental abnormality" means a congenital or acquired
17 condition that affects the emotional or volitional capacity of a person in
18 a manner that predisposes that person to the commission of criminal
19 sexual acts to a degree that makes the person a significant risk to the
20 health and safety of other persons. If a defendant is found to be a
21 sexually violent predator, the defendant shall be required to register
22 pursuant to article 22 of this title AND MAY BE SUBJECT TO COMMUNITY
23 NOTIFICATION, AS PROVIDED IN PART 9 OF ARTICLE 13 OF THIS TITLE.

24 **SECTION 3.** 18-3-414.5 (2) and (3), Colorado Revised Statutes,
25 are amended to read:

26 **18-3-414.5. Sexually violent predator.** (2) At the time a
27 presentence investigation report is conducted for a defendant who is

1 convicted of one of the offenses specified in subparagraph (II) of
2 paragraph (a) of subsection (1) of this section, the probation department
3 shall, in coordination with the evaluator completing the mental health sex
4 offense specific evaluation, complete the sexually violent predator risk
5 assessment. Based on the results of such assessment, the court shall make
6 specific findings of fact and enter an order concerning whether the
7 defendant is a sexually violent predator. If the defendant is found to be
8 a sexually violent predator, the defendant shall be required to register
9 pursuant to the provisions of section 16-22-108, C.R.S., AND MAY BE
10 SUBJECT TO COMMUNITY NOTIFICATION, AS PROVIDED IN PART 9 OF
11 ARTICLE 13 OF TITLE 16, C.R.S.

12 (3) When considering release on parole for an offender who was
13 convicted of one of the offenses specified in subparagraph (II) of
14 paragraph (a) of subsection (1) of this section, the parole board shall
15 make specific findings concerning whether the offender is a sexually
16 violent predator, based on the results of a sexually violent predator
17 assessment conducted by the department of corrections. If the parole
18 board finds that the offender is a sexually violent predator, the offender
19 shall be required to register pursuant to the provisions of section
20 16-22-108, C.R.S., AND MAY BE SUBJECT TO COMMUNITY NOTIFICATION,
21 AS PROVIDED IN PART 9 OF ARTICLE 13 OF TITLE 16, C.R.S.

22 [REDACTED]

23 [REDACTED]

24 SECTION 4. 13-80-103.7, Colorado Revised Statutes, is
25 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

26 13-80-103.7. General limitation of actions - sexual assault - six
27 years - sexual offense against a child - unlimited - definitions. (1) As

1 USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:
2 (a) "PERSON UNDER DISABILITY" MEANS A PERSON:
3 (I) (A) WHO IS A MINOR UNDER EIGHTEEN YEARS OF AGE, A
4 MENTAL INCOMPETENT, OR A PERSON UNDER OTHER LEGAL DISABILITY;
5 AND
6 (B) WHO DOES NOT HAVE A LEGAL GUARDIAN; OR
7 (II) (A) WHO IS A VICTIM OF A SEXUAL ASSAULT WHO IS IN A
8 SPECIAL RELATIONSHIP WITH THE PERPETRATOR OF THE ASSAULT, OR A
9 VICTIM WHO RESIDES IN AN INSTITUTIONAL FACILITY, SUCH AS A NURSING
10 HOME, REGIONAL CENTER, OR RESIDENTIAL FACILITY FOR THE TREATMENT
11 AND CARE OF PERSONS WITH MENTAL ILLNESS OR FOR THE CARE OF
12 PERSONS WITH DEVELOPMENTAL DISABILITIES; AND
13 (B) WHO IS PSYCHOLOGICALLY OR EMOTIONALLY UNABLE TO
14 ACKNOWLEDGE THE SEXUAL ASSAULT AND THE HARM RESULTING
15 THEREFROM.
16 (b) "SEXUAL ASSAULT" MEANS SUBJECTING ANOTHER PERSON TO
17 SEXUAL CONTACT, AS DEFINED IN SECTION 18-3-401 (4), C.R.S.; SEXUAL
18 INTRUSION, AS DEFINED IN SECTION 18-3-401 (5), C.R.S.; OR SEXUAL
19 PENETRATION, AS DEFINED IN SECTION 18-3-401 (6), C.R.S.
20 (c) "SEXUAL OFFENSE AGAINST A CHILD" MEANS AN "UNLAWFUL
21 SEXUAL OFFENSE", AS THAT TERM IS DEFINED IN SECTION 18-3-411,
22 C.R.S., THAT IS A FELONY OFFENSE.
23 (d) "SPECIAL RELATIONSHIP" MEANS A RELATIONSHIP BETWEEN
24 THE VICTIM AND THE PERPETRATOR OF THE SEXUAL ASSAULT THAT IS A
25 CONFIDENTIAL, TRUST-BASED RELATIONSHIP, INCLUDING BUT NOT LIMITED
26 TO AN ATTORNEY-CLIENT, A DOCTOR-PATIENT, A
27 PSYCHOTHERAPIST-PATIENT, A MINISTER-PARISHIONER, A

1 TEACHER-STUDENT, OR A FAMILIAL RELATIONSHIP.

2 (2) (a) NOTWITHSTANDING ANY OTHER STATUTE OF LIMITATIONS
3 SPECIFIED IN THIS ARTICLE, OR ANY OTHER PROVISION OF LAW THAT MAY
4 BE CONSTRUED TO REDUCE THE STATUTORY PERIOD SET FORTH IN THIS
5 SUBSECTION (2), A CIVIL ACTION ALLEGING LIABILITY FOR INJURIES
6 ARISING FROM COMMISSION OF A SEXUAL ASSAULT THAT IS NOT A SEXUAL
7 OFFENSE AGAINST A CHILD SHALL BE COMMENCED AGAINST ANY PERSON,
8 WHETHER THE PERPETRATOR OF THE OFFENSE OR ANOTHER PERSON OR
9 ENTITY, WITHIN SIX YEARS AFTER THE CAUSE OF ACTION ACCRUES OR
10 WITHIN SIX YEARS AFTER THE DISABILITY IS REMOVED FOR A PERSON
11 UNDER DISABILITY, WHICHEVER OCCURS LATER, AND NOT THEREAFTER.

12 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO LEAVE IN
13 PLACE THE SIX-YEAR LIMITATION FOR A VICTIM OF SEXUAL ASSAULT THAT
14 IS NOT A SEXUAL OFFENSE AGAINST A CHILD, EXCEPT IN THE
15 CIRCUMSTANCE IN WHICH THE VICTIM IS A PERSON UNDER DISABILITY. IN
16 THE CIRCUMSTANCE IN WHICH A VICTIM OF A SEXUAL ASSAULT THAT IS
17 NOT A SEXUAL OFFENSE AGAINST A CHILD IS A PERSON UNDER DISABILITY,
18 THE SIX-YEAR LIMITATION SHALL BE TOLLED UNTIL THE DISABILITY IS
19 REMOVED.

20 (c) AS ELEMENTS OF A CAUSE OF ACTION BROUGHT BY A PLAINTIFF
21 WHO WAS A PERSON UNDER DISABILITY, AS DEFINED IN SUBPARAGRAPH (II)
22 OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, THE PLAINTIFF
23 HAS THE BURDEN OF PROVING THAT THE ASSAULT OCCURRED AND THAT
24 HE OR SHE WAS ACTUALLY PSYCHOLOGICALLY OR EMOTIONALLY UNABLE
25 TO ACKNOWLEDGE THE ASSAULT AND THE HARM RESULTING THEREFROM.

26 (d) FOR THE PURPOSE OF THIS SUBSECTION (2), WHERE THE
27 PLAINTIFF IS A VICTIM OF A SERIES OF SEXUAL ASSAULTS THAT ARE NOT

1 SEXUAL OFFENSES AGAINST A CHILD, THE PLAINTIFF NEED NOT ESTABLISH
2 WHICH ACT OF A SERIES OF ACTS CAUSED THE PLAINTIFF'S INJURY. THE
3 STATUTE OF LIMITATIONS SET FORTH IN PARAGRAPH (a) OF THIS
4 SUBSECTION (2) SHALL COMMENCE WITH THE LAST IN THE SERIES OF ACTS,
5 SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (2) REGARDING PERSONS
6 UNDER DISABILITY.

7 (3) NOTWITHSTANDING ANY OTHER STATUTE OF LIMITATIONS
8 SPECIFIED IN THIS ARTICLE, OR ANY OTHER PROVISION OF LAW THAT MAY
9 BE CONSTRUED TO REDUCE THE STATUTORY PERIOD SET FORTH IN THIS
10 SUBSECTION (3), A CIVIL ACTION ALLEGING LIABILITY FOR INJURIES
11 ARISING FROM COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD MAY
12 BE COMMENCED AGAINST ANY PERSON, WHETHER THE PERPETRATOR OF
13 THE OFFENSE OR ANOTHER PERSON OR ENTITY, AT ANY TIME AFTER THE
14 CAUSE OF ACTION ACCRUES.

15 (4) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING
16 SUBSECTIONS (2) AND (3) OF THIS SECTION TO EXTEND THE STATUTE OF
17 LIMITATIONS AS TO CIVIL ACTIONS DESCRIBED IN THIS SECTION ACCRUING
18 ON OR AFTER JULY 1, 2006, AND TO EXTEND THE STATUTE OF LIMITATIONS
19 AS TO CIVIL ACTIONS DESCRIBED IN THIS SECTION FOR WHICH THE
20 APPLICABLE STATUTE OF LIMITATIONS IN EFFECT PRIOR TO JULY 1, 2006,
21 HAS NOT YET RUN ON JULY 1, 2006.

22 (5) NOTWITHSTANDING THE PROVISIONS OF SECTION 13-90-107, A
23 PLAINTIFF WHO WAS A PERSON UNDER DISABILITY WHO FILES A CLAIM
24 PURSUANT TO THIS SECTION IS DEEMED TO GRANT A LIMITED WAIVER OF
25 THE DOCTOR-PATIENT PRIVILEGE OR THE PSYCHOLOGIST-PATIENT
26 PRIVILEGE TO PERSONS WHO ARE NECESSARY TO RESOLVE THE CLAIM, AND
27 A DOCTOR OR PSYCHOLOGIST WHO PROVIDED MEDICAL CARE AND

1 TREATMENT OR COUNSELING AND TREATMENT TO THE PLAINTIFF FOR
2 INJURIES UPON WHICH THE ACTION IS BASED MAY BE EXAMINED AS A
3 WITNESS. ALL MEDICAL RECORDS PERTAINING TO ANY RELEVANT
4 MEDICAL CARE AND TREATMENT OR COUNSELING AND TREATMENT OF THE
5 PLAINTIFF WHO WAS A PERSON UNDER DISABILITY ARE ADMISSIBLE INTO
6 EVIDENCE IN THE ACTION AND SHALL BE AVAILABLE FOR INSPECTION UPON
7 REQUEST BY THE PARTIES TO THE ACTION.

8 (6) IF A PLAINTIFF BRINGS A CIVIL ACTION UNDER THIS SECTION
9 FIFTEEN YEARS OR MORE AFTER THE PLAINTIFF ATTAINS THE AGE OF
10 EIGHTEEN, THE PLAINTIFF MAY RECOVER ACTUAL DAMAGES ONLY FOR
11 MEDICAL AND COUNSELING TREATMENT AND EXPENSES. IN ADDITION, THE
12 PLAINTIFF MAY RECOVER NONECONOMIC DAMAGES AS PROVIDED IN
13 SECTION 13-21-102.5 AND EXEMPLARY DAMAGES AS PROVIDED IN SECTION
14 13-21-102, PLUS ATTORNEY FEES AND COSTS.

15 (7) IF THE PERPETRATOR OF A SEXUAL ASSAULT OR A SEXUAL
16 OFFENSE AGAINST A CHILD IS DECEASED OR IS INCAPACITATED TO THE
17 EXTENT THAT HE OR SHE IS INCAPABLE OF RENDERING A DEFENSE TO AN
18 ACTION BROUGHT PURSUANT TO THIS SECTION, A PLAINTIFF MAY NOT
19 BRING AN ACTION PURSUANT TO THIS SECTION, WHETHER AGAINST THE
20 PERPETRATOR OR AGAINST A PERSON OR ENTITY OTHER THAN THE
21 PERPETRATOR.

22 (8) THE PROVISIONS OF THIS SECTION SHALL NOT BE CONSTRUED
23 TO EXTEND OR SUSPEND THE STATUTE OF LIMITATIONS OR STATUTE OF
24 REPOSE APPLICABLE TO A CLAIM ALLEGING NEGLIGENCE IN THE COURSE OF
25 PROVIDING PROFESSIONAL SERVICES IN THE PRACTICE OF MEDICINE. THIS
26 SUBSECTION (8) SHALL NOT BE CONSTRUED TO PRECLUDE PURSUING A
27 CIVIL ACTION PURSUANT TO THIS SECTION ALLEGING LIABILITY FOR

1 INJURIES ARISING FROM COMMISSION OF A SEXUAL ASSAULT OR SEXUAL
2 OFFENSE AGAINST A CHILD BASED ON A LEGAL THEORY OTHER THAN
3 NEGLIGENCE IN THE COURSE OF PROVIDING PROFESSIONAL SERVICES IN THE
4 PRACTICE OF MEDICINE, UNLESS THE SEXUAL ASSAULT OR SEXUAL
5 OFFENSE AGAINST A CHILD FORMS THE BASIS FOR A CLAIM OF SUCH
6 NEGLIGENCE.

7 **SECTION 5.** Article 20 of title 13, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PART to read:

9 PART 11
10 CIVIL ACTIONS INVOLVING
11 SEXUAL OFFENSES AGAINST CHILDREN

12 **13-20-1101. Legislative declaration.** THE GENERAL ASSEMBLY
13 HEREBY FINDS THAT SEXUAL OFFENSES AGAINST CHILDREN EXACT AN
14 UNACCEPTABLY HIGH COST ON SOCIETY AND ON THE LIVES OF COUNTLESS
15 INNOCENT VICTIMS. IN THE INTEREST OF PROTECTING THE PUBLIC SAFETY,
16 PROMOTING JUSTICE FOR VICTIMS, AND CREATING THE GREATEST POSSIBLE
17 DETERRENT TO THE COMMISSION OF SEXUAL OFFENSES AGAINST
18 CHILDREN, THE GENERAL ASSEMBLY HAS ENACTED SECTION 13-80-103.7
19 TO EXTEND THE STATUTE OF LIMITATIONS FOR BRINGING A CIVIL ACTION
20 THAT ALLEGES LIABILITY FOR INJURIES ARISING FROM COMMISSION OF A
21 SEXUAL OFFENSE AGAINST A CHILD, WHETHER BROUGHT AGAINST THE
22 PERPETRATOR OR AGAINST ANOTHER ENTITY OR PERSON. TO FURTHER
23 ACCOMPLISH THE GOALS OF PUBLIC SAFETY, JUSTICE, AND DETERRENCE
24 WITH REGARD TO CIVIL ACTIONS ALLEGING LIABILITY FOR INJURIES
25 ARISING FROM SEXUAL OFFENSES COMMITTED AGAINST CHILDREN, THE
26 GENERAL ASSEMBLY FINDS THAT IT IS NECESSARY TO ENACT THE
27 PROVISIONS OF THIS PART 11.

1 **13-20-1102. Definitions.** AS USED IN THIS PART 11, UNLESS THE
2 CONTEXT OTHERWISE REQUIRES:

3 (1) "PUBLIC EMPLOYEE" SHALL HAVE THE SAME MEANING AS
4 PROVIDED FOR SAID TERM IN SECTION 24-10-103 (4), C.R.S., AND SHALL
5 INCLUDE AN "EMPLOYEE", AS DEFINED IN SECTION 22-12-103 (2), C.R.S.

6 (2) "PUBLIC ENTITY" SHALL HAVE THE SAME MEANING AS
7 PROVIDED FOR SAID TERM IN SECTION 24-10-103 (5), C.R.S., AND SHALL
8 INCLUDE AN "EDUCATIONAL ENTITY", AS DEFINED IN SECTION 22-12-103
9 (1), C.R.S.

10 (3) "SEXUAL OFFENSE AGAINST A CHILD" MEANS AN "UNLAWFUL
11 SEXUAL OFFENSE", AS THAT TERM IS DEFINED IN SECTION 18-3-411,
12 C.R.S., THAT IS A FELONY OFFENSE.

13 **13-20-1103. Confidentiality agreements - void.** THE GENERAL
14 ASSEMBLY HEREBY FINDS THAT PROTECTION OF THE PUBLIC SAFETY
15 REQUIRES THAT MEMBERS OF THE PUBLIC HAVE ACCESS TO INFORMATION
16 CONCERNING AN ALLEGED SEXUAL OFFENSE AGAINST A CHILD THAT IS OR
17 MAY BE THE BASIS OF A CIVIL ACTION ALLEGING LIABILITY FOR INJURIES
18 ARISING FROM COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD,
19 WHETHER BROUGHT AGAINST THE PERPETRATOR OR AGAINST ANOTHER
20 ENTITY OR PERSON. THEREFORE, AN AGREEMENT TO HOLD CONFIDENTIAL
21 THE EXISTENCE OR THE NATURE OF AN ALLEGED SEXUAL OFFENSE AGAINST
22 A CHILD OR THE NAME, LOCATION, OR EMPLOYMENT OF A PERSON WHO
23 ALLEGEDLY COMMITS A SEXUAL OFFENSE AGAINST A CHILD IS DECLARED
24 UNENFORCEABLE AS A CONTRACT AGAINST PUBLIC POLICY AND IS VOID AB
25 INITIO. IF A CONFIDENTIALITY AGREEMENT AS DESCRIBED IN THIS SECTION
26 IS INCLUDED WITHIN A SETTLEMENT AGREEMENT OR AN AGREEMENT NOT
27 TO SUE, THE SETTLEMENT AGREEMENT OR AGREEMENT NOT TO SUE SHALL

1 BE VOID ONLY AS TO THE CONFIDENTIALITY AGREEMENT, AND THE
2 REMAINING PORTIONS OF THE SETTLEMENT AGREEMENT OR AGREEMENT
3 NOT TO SUE MAY BE ENFORCED.

4 **13-20-1104. Access to court records.** WITH REGARD TO AN
5 ACTION ALLEGING LIABILITY FOR INJURIES ARISING FROM COMMISSION OF
6 A SEXUAL OFFENSE AGAINST A CHILD, WHETHER FILED AGAINST THE
7 PERPETRATOR OR AGAINST ANOTHER ENTITY OR PERSON, THE COURT MAY,
8 UPON MOTION OF A PARTY TO THE ACTION, LIMIT ACCESS TO THE COURT
9 FILES PERTAINING TO THE ACTION; EXCEPT THAT THE COURT SHALL NOT
10 LIMIT ACCESS TO INFORMATION CONCERNING THE NATURE OF THE
11 ALLEGED SEXUAL OFFENSE AGAINST A CHILD OR THE NAME, LOCATION, OR
12 EMPLOYMENT OF THE PERSON WHO ALLEGEDLY COMMITTED THE SEXUAL
13 OFFENSE AGAINST A CHILD.

14 **13-20-1105. Civil liability of public institutions and employees**
15 **- sexual offense against a child - applicability.**

16 (1) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-12-104,
17 24-10-105, AND 24-10-106, C.R.S., OR ANY OTHER STATUTE THAT
18 PROHIBITS CIVIL ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC
19 EMPLOYEES, A PERSON MAY BRING A CIVIL ACTION AGAINST A PUBLIC
20 EMPLOYEE ALLEGING LIABILITY FOR INJURIES ARISING FROM COMMISSION
21 BY THE PUBLIC EMPLOYEE OF A SEXUAL OFFENSE AGAINST A CHILD.

22 (b) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-12-104
23 (3), 24-10-109 (1), AND 24-10-118 (1) (a), C.R.S., REQUIRING THE FILING
24 OF A WRITTEN NOTICE, A PERSON BRINGING AN ACTION PURSUANT TO THIS
25 SUBSECTION (1) IS NOT REQUIRED TO FILE WRITTEN NOTICE AS A
26 JURISDICTIONAL PREREQUISITE TO BRINGING THE ACTION. AN ACTION
27 BROUGHT PURSUANT TO THIS SUBSECTION (1) SHALL BE SUBJECT TO THE

1 PROVISIONS OF SECTION 13-80-103.7.

2 (c) A PERSON WHO BRINGS AN ACTION PURSUANT TO THIS
3 SUBSECTION (1) MAY RECOVER ACTUAL DAMAGES, DAMAGES FOR
4 NONECONOMIC LOSS OR INJURY AS PROVIDED IN SECTION 13-21-102.5,
5 AND EXEMPLARY DAMAGES AS PROVIDED IN SECTION 13-21-102, IN
6 ADDITION TO SUCH COSTS AND ATTORNEY FEES AS THE COURT MAY
7 AWARD.

8 (2) (a) NOTWITHSTANDING THE PROVISIONS OF SECTIONS
9 22-12-104, 24-10-105, 24-10-106, AND 24-10-118 (2), C.R.S., OR ANY
10 OTHER STATUTE THAT PROHIBITS CIVIL ACTIONS AGAINST PUBLIC ENTITIES
11 AND PUBLIC EMPLOYEES, A PERSON MAY BRING A CIVIL ACTION ALLEGING
12 NEGLIGENT SUPERVISION BY A PUBLIC ENTITY OR SUPERVISING PUBLIC
13 EMPLOYEE THAT RESULTS IN INJURIES ARISING FROM COMMISSION OF A
14 SEXUAL OFFENSE AGAINST A CHILD.

15 (b) IN AN ACTION BROUGHT PURSUANT TO THIS SUBSECTION (2),
16 THE PLAINTIFF SHALL HAVE THE BURDEN OF PROVING, BY A
17 PREPONDERANCE OF THE EVIDENCE, THAT:

18 (I) THE PUBLIC ENTITY OR SUPERVISING PUBLIC EMPLOYEE KNEW
19 OR WAS OTHERWISE ON NOTICE OF THE PROPENSITY OF AN EMPLOYEE,
20 VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE OF THE PUBLIC
21 ENTITY FOR ENGAGING IN UNLAWFUL SEXUAL CONDUCT; AND

22 (II) THE PUBLIC ENTITY OR SUPERVISING PUBLIC EMPLOYEE FAILED
23 TO TAKE REASONABLE STEPS AND IMPLEMENT REASONABLE SAFEGUARDS
24 TO AVOID PROSPECTIVE ACTS OF UNLAWFUL SEXUAL CONDUCT BY THE
25 EMPLOYEE, VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE,
26 INCLUDING BUT NOT LIMITED TO PREVENTING OR AVOIDING PLACEMENT OF
27 THE EMPLOYEE, VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE

1 IN A POSITION, FUNCTION, OR ENVIRONMENT IN WHICH CONTACT WITH
2 CHILDREN IS AN ESSENTIAL PART OF THE POSITION, FUNCTION, OR
3 ENVIRONMENT; AND

4 (III) AS A RESULT OF SAID FAILURE, THE EMPLOYEE, VOLUNTEER,
5 REPRESENTATIVE, AGENT, OR SUBORDINATE COMMITTED THE UNLAWFUL
6 SEXUAL OFFENSE AGAINST A CHILD THAT RESULTED IN THE INJURIES FOR
7 WHICH LIABILITY IS ALLEGED.

8 (c) NOTWITHSTANDING THE PROVISIONS OF SECTIONS 22-12-104
9 (3), 24-10-109 (1), AND 24-10-118 (1) (a), C.R.S., REQUIRING THE FILING
10 OF A WRITTEN NOTICE, A PERSON BRINGING AN ACTION PURSUANT TO THIS
11 SUBSECTION (2) IS NOT REQUIRED TO FILE WRITTEN NOTICE AS A
12 JURISDICTIONAL PREREQUISITE TO BRINGING THE ACTION. AN ACTION
13 BROUGHT PURSUANT TO THIS SUBSECTION (2) SHALL BE SUBJECT TO THE
14 PROVISIONS OF SECTION 13-80-103.7.

15 (d) A PERSON WHO BRINGS AN ACTION PURSUANT TO THIS
16 SUBSECTION (2) MAY RECOVER DAMAGES AGAINST A PUBLIC ENTITY AS
17 PROVIDED IN SECTION 24-10-114, C.R.S. A PERSON WHO BRINGS AN
18 ACTION PURSUANT TO THIS SUBSECTION (2) MAY RECOVER DAMAGES
19 AGAINST A PUBLIC EMPLOYEE AS PROVIDED IN SECTION 24-10-118 (1) (b),
20 (1) (c), AND (1) (d), C.R.S.

21 (3) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CAUSES OF
22 ACTION ACCRUING ON OR AFTER JULY 1, 2006, AND TO CAUSES OF ACTION
23 ACCRUING BEFORE JULY 1, 2006, IF THE STATUTE OF LIMITATIONS THAT
24 WOULD HAVE APPLIED, IF IMMUNITY AND THE REQUIREMENT OF WRITTEN
25 NOTICE WERE WAIVED PRIOR TO JULY 1, 2006, HAS NOT YET RUN AS OF
26 JULY 1, 2006.

27 **13-20-1106. Actions alleging negligent supervision by private**

1 employer or supervising employee - sexual offense against a child -
2 applicability. (1) A PERSON MAY BRING A CIVIL ACTION ALLEGING
3 NEGLIGENT SUPERVISION BY A PRIVATE EMPLOYER OR A SUPERVISING
4 EMPLOYEE THAT RESULTS IN INJURIES ARISING FROM COMMISSION OF A
5 SEXUAL OFFENSE AGAINST A CHILD.

6 (2) IN AN ACTION BROUGHT PURSUANT TO THIS SECTION, THE
7 PLAINTIFF SHALL HAVE THE BURDEN OF PROVING, BY A PREPONDERANCE
8 OF THE EVIDENCE, THAT:

9 (a) THE EMPLOYER OR SUPERVISING EMPLOYEE KNEW OR WAS
10 OTHERWISE ON NOTICE OF THE PROPENSITY OF AN EMPLOYEE, VOLUNTEER,
11 REPRESENTATIVE, AGENT, OR SUBORDINATE OF THE EMPLOYER FOR
12 ENGAGING IN UNLAWFUL SEXUAL CONDUCT; AND

13 (b) THE EMPLOYER OR SUPERVISING EMPLOYEE FAILED TO TAKE
14 REASONABLE STEPS AND IMPLEMENT REASONABLE SAFEGUARDS TO AVOID
15 PROSPECTIVE ACTS OF UNLAWFUL SEXUAL CONDUCT BY THE EMPLOYEE,
16 VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE, INCLUDING BUT
17 NOT LIMITED TO PREVENTING OR AVOIDING PLACEMENT OF THE EMPLOYEE,
18 VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE IN A POSITION,
19 FUNCTION, OR ENVIRONMENT IN WHICH CONTACT WITH CHILDREN IS AN
20 ESSENTIAL PART OF THE POSITION, FUNCTION, OR ENVIRONMENT; AND

21 (c) AS A RESULT OF SAID FAILURE, THE EMPLOYEE, VOLUNTEER,
22 REPRESENTATIVE, AGENT, OR SUBORDINATE COMMITTED THE UNLAWFUL
23 SEXUAL OFFENSE AGAINST A CHILD THAT RESULTED IN THE INJURIES FOR
24 WHICH LIABILITY IS ALLEGED.

25 (3) THE PROVISIONS OF THIS SECTION SHALL APPLY TO CAUSES OF
26 ACTION FILED ON OR AFTER JULY 1, 2006.

27 **SECTION 6.** 16-22-112 (3) (b) and (3) (e), Colorado Revised

1 Statutes, are amended, and the said 16-22-112 is further amended BY
2 THE ADDITION OF A NEW SUBSECTION, to read:

3 **16-22-112. Release of information - law enforcement agencies.**

4 (3) (b) At its discretion, a local law enforcement agency may release
5 information regarding any person registered with the local law
6 enforcement agency pursuant to this article to any person who does not
7 reside within the local law enforcement agency's jurisdiction or may post
8 the information specified in ~~paragraph (e) of this subsection (3)~~
9 PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION on the law
10 enforcement agency's website. If a local law enforcement agency does
11 not elect to release information regarding any person registered with the
12 local law enforcement agency to a person not residing within the local
13 law enforcement agency's jurisdiction, the local law enforcement agency
14 may submit a request from the person to the CBI.

15 (e) ~~A local law enforcement agency may post on its website sex~~
16 ~~offender registration information of a person from its registration list only~~
17 ~~if the person is:~~

18 (I) ~~An adult convicted of a felony requiring the adult to register~~
19 ~~pursuant to section 16-22-103;~~

20 (H) ~~An adult convicted of a second or subsequent offense of any~~
21 ~~of the following misdemeanors:~~

22 (A) ~~Sexual assault as described in section 18-3-402 (1) (e),~~
23 ~~C.R.S.;~~

24 (B) ~~Unlawful sexual contact as described in section 18-3-404,~~
25 ~~C.R.S.;~~

26 (C) ~~Sexual assault on a client as described in section 18-3-405.5~~
27 ~~(2), C.R.S.;~~

1 ~~(D) Sexual exploitation of a child by possession of sexually~~
2 ~~exploitive material as described in section 18-6-403 (3) (b.5), C.R.S.;~~

3 ~~(E) Indecent exposure as described in section 18-7-302, C.R.S.;~~

4 or

5 ~~(F) Sexual conduct in a penal institution as described in section~~
6 ~~18-7-701, C.R.S.;~~

7 ~~(H) A juvenile adjudicated for two or more offenses involving~~
8 ~~unlawful sexual behavior or for a crime of violence as defined in section~~
9 ~~18-1.3-406, C.R.S.; or~~

10 ~~(IV) A juvenile who is required to register pursuant to section~~
11 ~~16-22-103 because he or she was adjudicated for an offense that would~~
12 ~~have been a felony if committed by an adult and has failed to register as~~
13 ~~required by section 16-22-103.~~

14 (3.5) TO ASSIST MEMBERS OF THE PUBLIC IN PROTECTING
15 THEMSELVES FROM PERSONS WHO COMMIT OFFENSES INVOLVING
16 UNLAWFUL SEXUAL BEHAVIOR, A LOCAL LAW ENFORCEMENT AGENCY
17 THAT CHOOSES TO POST SEX OFFENDER REGISTRATION INFORMATION ON
18 ITS WEBSITE SHALL EITHER POST EDUCATIONAL INFORMATION
19 CONCERNING PROTECTION FROM SEX OFFENDERS ON ITS WEBSITE OR
20 PROVIDE A LINK TO THE EDUCATIONAL INFORMATION INCLUDED ON THE
21 CBI WEBSITE MAINTAINED PURSUANT TO SECTION 16-22-111. A LOCAL
22 LAW ENFORCEMENT AGENCY THAT POSTS THE EDUCATIONAL INFORMATION
23 SHALL WORK WITH THE SEX OFFENDER MANAGEMENT BOARD CREATED
24 PURSUANT TO SECTION 16-11.7-103 AND SEXUAL ASSAULT VICTIMS'
25 ADVOCACY GROUPS IN PREPARING THE EDUCATIONAL INFORMATION.

26 **SECTION 7.** 18-3-414.5, Colorado Revised Statutes, is amended
27 BY THE ADDITION OF A NEW SUBSECTION to read:

1 **18-3-414.5. Sexually violent predators - assessment - annual**

2 **report.** (4) ON OR BEFORE JANUARY 15, 2007, AND ON OR BEFORE
3 JANUARY 15 EACH YEAR THEREAFTER, THE JUDICIAL DEPARTMENT AND
4 THE DEPARTMENT OF CORRECTIONS SHALL JOINTLY SUBMIT TO THE
5 JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF
6 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND TO THE
7 GOVERNOR A REPORT SPECIFYING THE FOLLOWING INFORMATION:

8 (a) THE NUMBER OF OFFENDERS EVALUATED PURSUANT TO THIS
9 SECTION IN THE PRECEDING TWELVE MONTHS;

10 (b) THE NUMBER OF SEXUALLY VIOLENT PREDATORS IDENTIFIED
11 PURSUANT TO THIS SECTION IN THE PRECEDING TWELVE MONTHS;

12 (c) THE TOTAL NUMBER OF SEXUALLY VIOLENT PREDATORS IN THE
13 CUSTODY OF THE DEPARTMENT OF CORRECTIONS AT THE TIME OF THE
14 REPORT, SPECIFYING THOSE IN INCARCERATION, THOSE HOUSED IN
15 COMMUNITY CORRECTIONS, AND THOSE ON PAROLE, INCLUDING THE LEVEL
16 OF SUPERVISION FOR EACH SEXUALLY VIOLENT PREDATOR ON PAROLE;

17 (d) THE LENGTH OF SENTENCE IMPOSED ON EACH SEXUALLY
18 VIOLENT PREDATOR IN THE CUSTODY OF THE DEPARTMENT OF
19 CORRECTIONS AT THE TIME OF THE REPORT;

20 (e) THE NUMBER OF SEXUALLY VIOLENT PREDATORS DISCHARGED
21 FROM PAROLE DURING THE PRECEDING TWELVE MONTHS;

22 (f) THE TOTAL NUMBER OF SEXUALLY VIOLENT PREDATORS ON
23 PROBATION AT THE TIME OF THE REPORT AND THE LEVEL OF SUPERVISION
24 OF EACH SEXUALLY VIOLENT PREDATOR ON PROBATION;

25 (g) THE NUMBER OF SEXUALLY VIOLENT PREDATORS DISCHARGED
26 FROM PROBATION DURING THE PRECEDING TWELVE MONTHS; AND

27 (h) ANY ADDITIONAL INFORMATION REQUESTED BY A MEMBER OF

1 THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF
2 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, OR BY THE
3 GOVERNOR.

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