

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

(None),

House Committees
Judiciary

Senate Committees

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.

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 **SECTION 4.** 16-5-401 (1) (a), (1) (c), (6), (7), (8), and (9),
23 Colorado Revised Statutes, are amended, and the said 16-5-401 is further
24 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25 **16-5-401. Limitation for commencing criminal proceedings**
26 **and juvenile delinquency proceedings.** (1) (a) Except as otherwise
27 provided by statute applicable to specific offenses, delinquent acts, or

1 circumstances, no adult person or juvenile shall be prosecuted, tried, or
2 punished for any offense or delinquent act unless the indictment,
3 information, complaint, or petition in delinquency is filed in a court of
4 competent jurisdiction or a summons and complaint or penalty assessment
5 notice is served upon the defendant or juvenile within the period of time
6 after the commission of the offense or delinquent act as specified below:

7 Murder, kidnapping, treason, ANY SEX OFFENSE COMMITTED BY AN
8 ADULT REGARDLESS OF THE PENALTY PROVIDED, and any forgery
9 regardless of the penalty provided: No limit

10 Attempt, conspiracy, or solicitation to commit murder;
11 attempt, conspiracy, or solicitation to commit kidnapping;
12 attempt, conspiracy, or solicitation to commit treason;

13 ATTEMPT, CONSPIRACY, OR SOLICITATION BY AN ADULT TO COMMIT
14 ANY SEX OFFENSE REGARDLESS OF THE PENALTY PROVIDED; and
15 attempt, conspiracy, or solicitation to commit any forgery
16 regardless of the penalty provided: No limit

17 Other felonies: Three years

18 Misdemeanors: Eighteen months

19 Class 1 and 2 misdemeanor traffic offenses: One year

20 Petty offenses: Six months

21 (c) For purposes of this section:

22 (I) "Delinquent act" has the same meaning as defined in section
23 19-1-103 (36), C.R.S.

24 (II) "Juvenile" means a child as defined in section 19-1-103 (18),
25 C.R.S.

26 (III) "Petition in delinquency" means any petition filed by a
27 district attorney pursuant to section 19-2-512, C.R.S.

1 (IV) "SEX OFFENSE" MEANS AN ACT CHARGED AS A FELONY OR
2 MISDEMEANOR PURSUANT TO SECTION 18-3-402, C.R.S., WHEN THE
3 VICTIM AT THE TIME OF COMMISSION OF THE ACT IS A JUVENILE, OR
4 SECTION 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, WHEN
5 THE VICTIM AT THE TIME OF THE COMMISSION OF THE ACT IS A CHILD
6 UNDER FIFTEEN YEARS OF AGE, OR SECTION 18-6-301, C.R.S., WHEN THE
7 VICTIM AT THE TIME OF COMMISSION OF THE ACT IS A JUVENILE, OR UNDER
8 SECTION 18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403, 18-6-404,
9 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, OR
10 18-7-406, C.R.S.

11 (1.5) THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION
12 PERTAINING TO SEX OFFENSES SHALL APPLY TO SEX OFFENSES COMMITTED
13 ON OR AFTER JULY 1, 2006, AND TO ANY SEX OFFENSES COMMITTED PRIOR
14 TO JULY 1, 2006, FOR WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN
15 ON JULY 1, 2006.

16 ~~(6) The period of time during which an adult person or juvenile~~
17 ~~may be prosecuted shall be extended for an additional seven years as to~~
18 ~~any offense or delinquent act charged under section 18-3-402, C.R.S., or~~
19 ~~section 18-3-403, C.R.S., as it existed prior to July 1, 2000, when the~~
20 ~~victim at the time of the commission of the act is a child under fifteen~~
21 ~~years of age, or under section 18-3-405, 18-3-405.3, 18-6-302, 18-6-402,~~
22 ~~18-6-403, 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405,~~
23 ~~18-7-405.5, or 18-7-406, C.R.S., or charged as criminal attempt,~~
24 ~~conspiracy, or solicitation to commit any of the acts specified in any of~~
25 ~~said sections.~~

26 (7) ~~When the victim at the time of the commission of the offense~~
27 ~~or delinquent act is a child under fifteen years of age, the period of time~~

1 ~~during which an adult person or juvenile may be prosecuted shall be~~
2 ~~extended for an additional seven years as to a felony charged under~~
3 ~~section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation~~
4 ~~to commit such a felony, and such period shall be extended for an~~
5 ~~additional three years and six months as to a misdemeanor charged under~~
6 ~~section 18-3-404, C.R.S., or criminal attempt, conspiracy, or solicitation~~
7 ~~to commit such a misdemeanor.~~

8 (8) (a) Notwithstanding the provisions of paragraph (a) of
9 subsection (1) of this section, and except as otherwise provided in
10 paragraphs (a.3) and (a.5) of this subsection (8), the period of time during
11 which ~~an adult person or~~ A juvenile may be prosecuted shall be ten years
12 after the commission of the offense or delinquent act as to any offense or
13 delinquent act:

14 (I) Charged under section 18-3-402, 18-3-403, as it existed prior
15 to July 1, 2000, 18-3-405, 18-3-405.3, 18-6-302, 18-6-402, 18-6-403,
16 18-6-404, 18-7-402, 18-7-403, 18-7-403.5, 18-7-404, 18-7-405,
17 18-7-405.5, or 18-7-406, C.R.S.;

18 (II) Charged as a felony under section 18-3-404, C.R.S.; or

19 (III) Charged as criminal attempt, conspiracy, or solicitation to
20 commit any of the offenses specified in subparagraphs (I) and (II) of this
21 paragraph (a).

22 (a.1) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
23 SUBSECTION (1) OF THIS SECTION, AND EXCEPT AS OTHERWISE PROVIDED
24 IN PARAGRAPH (a.5) OF THIS SUBSECTION (8), THE PERIOD OF TIME DURING
25 WHICH AN ADULT MAY BE PROSECUTED SHALL BE TEN YEARS AFTER THE
26 COMMISSION OF THE OFFENSE AS TO ANY OFFENSE:

27 (I) COMMITTED AGAINST A PERSON WHO IS AT LEAST EIGHTEEN

1 YEARS OF AGE; AND

2 (II) CHARGED UNDER SECTION 18-3-402 OR 18-6-301, C.R.S., OR
3 SECTION 18-3-403, C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000, OR
4 CHARGED AS A FELONY UNDER SECTION 18-3-404, C.R.S.

5 (a.3) If the victim at the time of the commission of ~~an offense or~~
6 A delinquent act is a child under eighteen years of age, the period of time
7 during which ~~an adult person or~~ A juvenile may be prosecuted shall be ten
8 years after such victim reaches the age of eighteen years as to any ~~offense~~
9 ~~or~~ delinquent act:

10 (I) Charged as a felony under section 18-3-402, 18-3-403, as it
11 existed prior to July 1, 2000, 18-3-404, 18-3-405, 18-3-405.3, 18-3-405.5,
12 18-6-301, 18-6-302, 18-6-402, 18-6-403, 18-6-404, 18-7-402, 18-7-403,
13 18-7-403.5, 18-7-404, 18-7-405, 18-7-405.5, or 18-7-406, C.R.S.; or

14 (II) Charged as criminal attempt, conspiracy, or solicitation to
15 commit any of the offenses specified in subparagraph (I) of this paragraph
16 (a.3).

17 (a.5) In any case in which the identity of the defendant is
18 determined, in whole or in part, by patterned chemical structure of genetic
19 information, and in which the offense has been reported to a law
20 enforcement agency, as defined in section 26-1-114 (3) (a) (III) (B),
21 C.R.S., within ten years after the commission of the offense, there shall
22 be no limit on the period of time during which a person may be
23 prosecuted after the commission of the offense as to any offense charged:

24 (I) Under section 18-3-402, 18-3-403, as it existed prior to July 1,
25 2000, 18-3-405, 18-3-405.3, or 18-6-302, C.R.S.; or

26 (II) As criminal attempt, conspiracy, or solicitation to commit any
27 of the offenses specified in subparagraph (I) of this paragraph (a.5).

1 (b) This subsection (8) shall apply to offenses and delinquent acts
2 committed on or after ~~July 1, 1984~~ JULY 1, 2006, AND TO ANY OFFENSES
3 AND DELINQUENT ACTS COMMITTED PRIOR TO JULY 1, 2006, FOR WHICH
4 THE STATUTE OF LIMITATIONS HAS NOT RUN ON JULY 1, 2006.

5 (9) (a) Notwithstanding the provisions of paragraph (a) of
6 subsection (1) of this section, the period of time during which ~~an adult~~
7 ~~person or~~ A juvenile may be prosecuted shall be five years after the
8 commission of the ~~offense or~~ delinquent act as to a misdemeanor charged
9 under section 18-3-404, C.R.S., or criminal attempt, conspiracy, or
10 solicitation to commit such a misdemeanor. ~~This subsection (9) shall~~
11 ~~apply to offenses and delinquent acts committed on or after January 1,~~
12 ~~1986.~~

13 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
14 SUBSECTION (1) OF THIS SECTION, THE PERIOD OF TIME DURING WHICH AN
15 ADULT MAY BE PROSECUTED SHALL BE FIVE YEARS AFTER THE
16 COMMISSION OF THE OFFENSE AS TO A MISDEMEANOR COMMITTED
17 AGAINST A PERSON EIGHTEEN YEARS OF AGE OR OLDER AND CHARGED
18 UNDER SECTION 18-3-404, C.R.S., OR CRIMINAL ATTEMPT, CONSPIRACY,
19 OR SOLICITATION TO COMMIT SUCH A MISDEMEANOR AGAINST SUCH A
20 VICTIM.

21 (c) THIS SUBSECTION (9) SHALL APPLY TO OFFENSES AND
22 DELINQUENT ACTS COMMITTED ON OR AFTER JULY 1, 2006, AND TO ANY
23 OFFENSES AND DELINQUENT ACTS COMMITTED PRIOR TO JULY 1, 2006, FOR
24 WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN ON JULY 1, 2006.

25 **SECTION 5. Repeal.** 16-5-401.1, Colorado Revised Statutes, is
26 repealed as follows:

27 **16-5-401.1. Legislative intent in enacting section 16-5-401 (6)**

1 **and (7).** ~~(1) The intent of the general assembly in enacting section~~
2 ~~16-5-401 (6) and (7) in 1982 was to create a ten-year statute of limitations~~
3 ~~as to offenses and delinquent acts specified in said subsections committed~~
4 ~~on or after July 1, 1979.~~

5 ~~(2) (Deleted by amendment, L. 94, p. 1050, § 4, effective July 1,~~
6 ~~1994.)~~

7 **SECTION 6.** 18-3-411 (2), Colorado Revised Statutes, is
8 amended to read:

9 **18-3-411. Sex offenses against children - unlawful sexual**
10 **offense defined - limitation for commencing proceedings - evidence**
11 **- statutory privilege.** (2) (a) (I) ~~No person shall be~~ A JUVENILE SHALL
12 NOT BE prosecuted, tried, or punished for an unlawful sexual offense,
13 other than the misdemeanor offenses specified in sections 18-3-402 and
14 18-3-404, unless the indictment, information, complaint, or action for the
15 same is found or instituted within ten years after commission of the
16 offense ~~No person shall be~~ OR WITHIN TEN YEARS AFTER THE VICTIM
17 REACHES EIGHTEEN YEARS OF AGE, WHICHEVER IS LATER. THE STATUTE
18 OF LIMITATIONS SPECIFIED IN THIS SUBPARAGRAPH (I) SHALL APPLY TO ALL
19 FELONY OFFENSES SPECIFIED IN SUBSECTION (1) OF THIS SECTION THAT
20 ARE ALLEGED TO HAVE OCCURRED ON OR AFTER JULY 1, 2006, AND TO
21 ANY OF SAID FELONY OFFENSES ALLEGED TO HAVE OCCURRED PRIOR TO
22 JULY 1, 2006, FOR WHICH THE STATUTE OF LIMITATIONS HAS NOT RUN ON
23 JULY 1, 2006.

24 (II) A JUVENILE SHALL NOT BE prosecuted, tried, or punished for
25 a misdemeanor offense specified in section 18-3-402 or 18-3-404, unless
26 the indictment, information, complaint, or action for the same is found or
27 instituted within five years after the commission of the offense. The

1 ~~ten-year~~ FIVE-YEAR statute of limitations shall apply to all MISDEMEANOR
2 offenses specified in subsection (1) of this section ~~which~~ THAT are alleged
3 to have occurred on or after ~~July 1, 1979, but prior to July 1, 1992~~ JULY
4 1, 2001.

5 (a.3) AN ADULT MAY BE PROSECUTED, TRIED, OR PUNISHED FOR
6 COMMISSION OF AN UNLAWFUL SEXUAL OFFENSE AT ANY TIME AFTER
7 COMMISSION OF THE OFFENSE. THE PROVISIONS OF THIS PARAGRAPH (a.3)
8 SHALL APPLY TO ANY UNLAWFUL SEXUAL OFFENSE COMMITTED ON OR
9 AFTER JULY 1, 2006, AND TO ANY UNLAWFUL SEXUAL OFFENSE
10 COMMITTED PRIOR TO JULY 1, 2006, FOR WHICH THE STATUTE OF
11 LIMITATIONS HAS NOT RUN ON JULY 1, 2006.

12 (b) ~~No person shall be prosecuted, tried, or punished for an~~
13 ~~unlawful sexual offense charged as a felony unless the indictment,~~
14 ~~information, complaint, or action for the same is found or instituted~~
15 ~~within ten years after the victim reaches the age of eighteen years. The~~
16 ~~ten-year statute of limitations shall apply to all felony offenses specified~~
17 ~~in subsection (1) of this section which are alleged to have occurred on or~~
18 ~~after July 1, 1992.~~

19 **SECTION 7.** 13-80-103.7, Colorado Revised Statutes, is
20 amended to read:

21 **13-80-103.7. General limitation of actions - sexual assault or**
22 **sexual offense against a child.** (1)(a) Notwithstanding any other statute
23 of limitations specified in this article, or any other provision of law that
24 can be construed to reduce the statutory period set forth in this section,
25 ~~any civil action based on a sexual assault or a sexual offense against a~~
26 ~~child~~ shall be commenced within six years after a disability has been
27 removed for a person under disability, as such term is defined in

1 subsection (3.5) of this section, or within six years after a cause of action
2 accrues, whichever occurs later, and not thereafter. ~~Nothing in this~~
3 ~~section shall be construed to extend the statutory period with respect to~~
4 ~~vicarious liability.~~

5 (b) (I) NOTWITHSTANDING ANY OTHER STATUTE OF LIMITATIONS
6 SPECIFIED IN THIS ARTICLE, OR ANY OTHER PROVISION OF LAW THAT CAN
7 BE CONSTRUED TO REDUCE THE STATUTORY PERIOD SET FORTH IN THIS
8 SECTION, ANY CIVIL ACTION BASED ON [REDACTED] A SEXUAL OFFENSE AGAINST
9 A CHILD [REDACTED] MAY BE COMMENCED AGAINST ANY PERSON AT ANY TIME
10 AFTER A CAUSE OF ACTION ACCRUES.

11 (II) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN ENACTING
12 THIS PARAGRAPH (b) TO EXTEND THE STATUTE OF LIMITATIONS AS TO
13 CIVIL ACTIONS DESCRIBED IN THIS PARAGRAPH (b) ACCRUING ON OR AFTER
14 JULY 1, 2006, AND TO EXTEND THE STATUTE OF LIMITATIONS AS TO CIVIL
15 ACTIONS DESCRIBED IN THIS PARAGRAPH (b) FOR WHICH THE APPLICABLE
16 STATUTE OF LIMITATIONS IN EFFECT PRIOR TO JULY 1, 2006, HAS NOT YET
17 RUN ON JULY 1, 2006.

18 (2) For the purpose of this section, "sexual assault" means
19 subjecting another person of any age to sexual contact, as defined in
20 section 18-3-401 (4), C.R.S.; sexual intrusion, as defined in section
21 18-3-401 (5), C.R.S.; or sexual penetration, as defined in section
22 18-3-401 (6), C.R.S.

23 (3) For the purposes of this section, "sexual offense against a
24 child" shall include all offenses listed in section 18-3-411, C.R.S.

25 (3.5) (a) For the purpose of this section, "person under disability"
26 means any person who is a minor under eighteen years of age, a mental
27 incompetent, or a person under other legal disability and who does not

1 have a legal guardian. "Person under disability" also includes a victim of
2 a sexual assault when the victim is in a special relationship with the
3 perpetrator of the assault or is a victim of a sexual offense against a child
4 or is a victim who is residing in an institutional facility, such as a nursing
5 home, regional center, or residential facility for the treatment and care of
6 persons with mental illness or for the care of persons with developmental
7 disabilities and where the victim is psychologically or emotionally unable
8 to acknowledge the assault or offense and the harm resulting therefrom.
9 For the purpose of this subsection (3.5), "special relationship" means a
10 relationship between the victim and the perpetrator of the sexual assault
11 which is a confidential, trust-based relationship, such as attorney-client,
12 doctor-patient, psychotherapist-patient, minister-parishioner,
13 teacher-student, or familial relationship. It is the intent of the general
14 assembly to leave in place the six-year limitation for adults subjected to
15 a sexual assault except in the situations described in this paragraph (a) in
16 which the victim is in a special relationship with the perpetrator of the
17 assault. In the circumstances in which a victim is in a special relationship
18 with the perpetrator of the assault or is a victim of a sexual offense
19 against a child or a victim who is residing in an institutional facility, such
20 as a nursing home, regional center, or residential facility for the treatment
21 and care of persons with mental illness or for the care of persons with
22 developmental disabilities and where the victim is psychologically or
23 emotionally unable to acknowledge the assault or offense and the harm
24 resulting therefrom, the six-year limitation SET FORTH IN PARAGRAPH (a)
25 OF SUBSECTION (1) OF THIS SECTION shall be tolled until the disability is
26 removed. For the purpose of this section, where the plaintiff is a victim
27 of a series of sexual assaults or sexual offenses against a child, the

1 plaintiff need not establish which act of a series of acts caused the
2 plaintiff's injury, and the SIX-YEAR statute of limitations set forth in
3 PARAGRAPH (a) OF SUBSECTION (1) OF this section shall commence with
4 the last in the series of acts, subject to the provisions of this section
5 regarding disability. However, as elements of the cause of action, a
6 person under disability who is psychologically or emotionally unable to
7 acknowledge the assault or offense and the harm resulting therefrom shall
8 have the burden of proving that the assault or offense occurred and that
9 such person was actually psychologically or emotionally unable to
10 acknowledge the assault or offense and the harm resulting therefrom.

11 ~~(b) Notwithstanding the provisions of section 13-90-107, the~~
12 ~~filing of a claim pursuant to this subsection (3.5) is deemed to be a~~
13 ~~limited waiver of the doctor-patient privilege or the psychologist-patient~~
14 ~~privilege to persons who are necessary to resolve the claim, and a doctor~~
15 ~~or psychologist who provided medical care and treatment or counseling~~
16 ~~and treatment to the plaintiff for injuries upon which an action under this~~
17 ~~subsection (3.5) is based may be examined as a witness. All medical~~
18 ~~records pertaining to any relevant medical care and treatment or~~
19 ~~counseling and treatment of the plaintiff are admissible into evidence in~~
20 ~~an action brought pursuant to this subsection (3.5) and shall be available~~
21 ~~for inspection upon request by the parties to the action.~~

22 ~~(c) If the plaintiff brings a civil action under this subsection (3.5)~~
23 ~~fifteen years or more after the plaintiff attains the age of eighteen, the~~
24 ~~plaintiff may only recover damages for medical and counseling treatment~~
25 ~~and expenses, plus costs and attorney fees.~~

26 (d) It is the intent of the general assembly in enacting this
27 subsection (3.5) to extend the statute of limitations as to civil actions

1 based on offenses described in PARAGRAPH (a) OF subsection (1) of this
2 section as amended on July 1, 1993, for which the applicable statute of
3 limitations in effect prior to July 1, 1993, has not yet run on July 1, 1993.

4 ~~(3.7) An action may not be brought pursuant to subsection (3.5)~~
5 ~~of this section if the defendant is deceased or is incapacitated to the extent~~
6 ~~that the defendant is incapable of rendering a defense to the action.~~

7 (4) ~~It is the intent of the general assembly in enacting this section~~
8 ~~to extend the statute of limitations as to civil actions based on offenses~~
9 ~~described in subsection (1) of this section for which the applicable statute~~
10 ~~of limitations in effect prior to July 1, 1990, has not yet run on July 1,~~
11 ~~1990: NOTWITHSTANDING THE PROVISIONS OF SECTION 13-90-107, THE~~
12 ~~FILING OF A CLAIM PURSUANT TO THIS SECTION IS DEEMED TO BE A LIMITED~~
13 ~~WAIVER OF THE DOCTOR-PATIENT PRIVILEGE OR THE~~
14 ~~PSYCHOLOGIST-PATIENT PRIVILEGE TO PERSONS WHO ARE NECESSARY TO~~
15 ~~RESOLVE THE CLAIM, AND A DOCTOR OR PSYCHOLOGIST WHO PROVIDED~~
16 ~~MEDICAL CARE AND TREATMENT OR COUNSELING AND TREATMENT TO THE~~
17 ~~PLAINTIFF FOR INJURIES UPON WHICH AN ACTION UNDER THIS SECTION IS~~
18 ~~BASED MAY BE EXAMINED AS A WITNESS. ALL MEDICAL RECORDS~~
19 ~~PERTAINING TO ANY RELEVANT MEDICAL CARE AND TREATMENT OR~~
20 ~~COUNSELING AND TREATMENT OF THE PLAINTIFF ARE ADMISSIBLE INTO~~
21 ~~EVIDENCE IN AN ACTION BROUGHT PURSUANT TO THIS SECTION AND SHALL~~
22 ~~BE AVAILABLE FOR INSPECTION UPON REQUEST BY THE PARTIES TO THE~~
23 ~~ACTION.~~

24 (5) The provisions of this section shall not be construed to extend
25 or suspend the statute of limitations or statute of repose applicable to a
26 claim alleging negligence in the course of providing professional services
27 in the practice of medicine. This subsection (5) shall not be construed to

1 preclude pursuing a civil action pursuant to this section alleging a sexual
2 offense based on a legal theory other than negligence in the course of
3 providing professional services in the practice of medicine, unless the
4 sexual assault forms the basis for a claim of such negligence.

5 **SECTION 8.** Part 1 of article 21 of title 13, Colorado Revised
6 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
7 read:

8 **13-21-125. Damages against public institutions and employees**
9 **- sexual offense against a child.** (1) AS USED IN THIS SECTION, UNLESS
10 THE CONTEXT OTHERWISE REQUIRES:

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

14 (b) "PUBLIC ENTITY" SHALL HAVE THE SAME MEANING AS
15 PROVIDED FOR SAID TERM IN SECTION 24-10-103 (5), C.R.S., AND SHALL
16 INCLUDE AN "EDUCATIONAL ENTITY", AS DEFINED IN SECTION 22-12-103
17 (1), C.R.S.

18 (c) "SEXUAL OFFENSE AGAINST A CHILD" SHALL HAVE THE SAME
19 MEANING AS PROVIDED FOR THE TERM "UNLAWFUL SEXUAL OFFENSE" IN
20 SECTION 18-3-411 (1), C.R.S.

21 (2) NOTWITHSTANDING THE PROVISIONS OF THE "COLORADO
22 GOVERNMENTAL IMMUNITY ACT", ARTICLE 10 OF TITLE 24, C.R.S., OR
23 THE PROVISIONS OF THE "TEACHER AND SCHOOL ADMINISTRATOR
24 PROTECTION ACT", ARTICLE 12 OF TITLE 22, C.R.S., OR ANY OTHER
25 STATUTORY PROVISION THAT LIMITS OR PROHIBITS CIVIL ACTIONS AGAINST
26 PUBLIC ENTITIES AND PUBLIC EMPLOYEES, A PERSON MAY BRING A CIVIL
27 ACTION BASED ON COMMISSION OF A SEXUAL OFFENSE AGAINST A CHILD

1 AGAINST A PUBLIC ENTITY AND AGAINST A PUBLIC EMPLOYEE IN THE SAME
2 MANNER THAT A PERSON MAY BRING SUCH AN ACTION AGAINST A PRIVATE
3 ENTITY OR PERSON.

4 (3) (a) THE PROVISIONS OF THIS SECTION SHALL APPLY TO A CAUSE
5 OF ACTION BASED ON VICARIOUS LIABILITY THAT IS BROUGHT AGAINST A
6 PUBLIC ENTITY OR PUBLIC EMPLOYEE THAT IS NOT THE PERPETRATOR OF
7 THE SEXUAL OFFENSE AGAINST A CHILD ON WHICH THE CAUSE OF ACTION
8 IS BASED IF:

9 (I) THE PUBLIC ENTITY OR PUBLIC EMPLOYEE KNEW, HAD REASON
10 TO KNOW, OR WAS OTHERWISE ON NOTICE OF ANY UNLAWFUL SEXUAL
11 CONDUCT BY THE PERPETRATOR WHO, AT THE TIME OF THE CONDUCT, WAS
12 AN EMPLOYEE, VOLUNTEER, REPRESENTATIVE, AGENT, OR SUBORDINATE
13 OF THE PUBLIC ENTITY OR PUBLIC EMPLOYEE; AND

14 (II) THE PUBLIC ENTITY OR PUBLIC EMPLOYEE FAILED TO TAKE
15 REASONABLE STEPS AND IMPLEMENT REASONABLE SAFEGUARDS TO AVOID
16 PROSPECTIVE ACTS OF UNLAWFUL SEXUAL CONDUCT BY THE
17 PERPETRATOR, INCLUDING BUT NOT LIMITED TO PREVENTING OR AVOIDING
18 PLACEMENT OF THE PERPETRATOR IN A POSITION, FUNCTION, OR
19 ENVIRONMENT IN WHICH CONTACT WITH CHILDREN IS AN ESSENTIAL PART
20 OF THE POSITION, FUNCTION, OR ENVIRONMENT.

21 (b) FOR PURPOSES OF THIS SUBSECTION (3), MERELY PROVIDING OR
22 REQUIRING COUNSELING SHALL BE DEEMED INSUFFICIENT TO CONSTITUTE
23 A REASONABLE STEP OR REASONABLE SAFEGUARD TO AVOID PROSPECTIVE
24 ACTS OF UNLAWFUL SEXUAL CONDUCT.

25 (4) THE STATUTE OF LIMITATIONS SPECIFIED IN SECTION
26 13-80-103.7 SHALL APPLY TO ANY CIVIL ACTION BROUGHT AGAINST A
27 PUBLIC ENTITY OR A PUBLIC EMPLOYEE PURSUANT TO THIS SECTION.

1 (5) A PERSON WHO BRINGS AN ACTION AGAINST A PUBLIC ENTITY
2 OR A PUBLIC EMPLOYEE PURSUANT TO THIS SECTION MAY RECOVER
3 ACTUAL DAMAGES, DAMAGES FOR NONECONOMIC LOSS OR INJURY, AND
4 EXEMPLARY DAMAGES AS PROVIDED IN THIS ARTICLE, IN ADDITION TO
5 SUCH COSTS AND ATTORNEY FEES AS THE COURT MAY AWARD.

6 SECTION 9. 16-22-112 (3) (b) and (3) (e), Colorado Revised
7 Statutes, are amended, and the said 16-22-112 is further amended BY
8 THE ADDITION OF A NEW SUBSECTION, to read:

9 **16-22-112. Release of information - law enforcement agencies.**

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

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

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

26 (II) ~~An adult convicted of a second or subsequent offense of any~~
27 ~~of the following misdemeanors:~~

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

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

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

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

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

11 ~~(F) Sexual conduct in a penal institution as described in section~~
12 ~~18-7-701, C.R.S.;~~

13 ~~(H) A juvenile adjudicated for two or more offenses involving~~
14 ~~unlawful sexual behavior or for a crime of violence as defined in section~~
15 ~~18-1.3-406, C.R.S.; or~~

16 ~~(IV) A juvenile who is required to register pursuant to section~~
17 ~~16-22-103 because he or she was adjudicated for an offense that would~~
18 ~~have been a felony if committed by an adult and has failed to register as~~
19 ~~required by section 16-22-103.~~

20 (3.5) TO ASSIST MEMBERS OF THE PUBLIC IN PROTECTING
21 THEMSELVES FROM PERSONS WHO COMMIT OFFENSES INVOLVING
22 UNLAWFUL SEXUAL BEHAVIOR, A LOCAL LAW ENFORCEMENT AGENCY
23 THAT CHOOSES TO POST SEX OFFENDER REGISTRATION INFORMATION ON
24 ITS WEBSITE SHALL EITHER POST EDUCATIONAL INFORMATION
25 CONCERNING PROTECTION FROM SEX OFFENDERS ON ITS WEBSITE OR
26 PROVIDE A LINK TO THE EDUCATIONAL INFORMATION INCLUDED ON THE
27 CBI WEBSITE MAINTAINED PURSUANT TO SECTION 16-22-111. A LOCAL

1 LAW ENFORCEMENT AGENCY THAT POSTS THE EDUCATIONAL INFORMATION
2 SHALL WORK WITH THE SEX OFFENDER MANAGEMENT BOARD CREATED
3 PURSUANT TO SECTION 16-11.7-103 AND SEXUAL ASSAULT VICTIMS'
4 ADVOCACY GROUPS IN PREPARING THE EDUCATIONAL INFORMATION.

5 **SECTION 10.** 18-3-414.5, Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW SUBSECTION to read:

7 **18-3-414.5. Sexually violent predators - assessment - annual**
8 **report.** (4) ON OR BEFORE JANUARY 15, 2007, AND ON OR BEFORE
9 JANUARY 15 EACH YEAR THEREAFTER, THE JUDICIAL DEPARTMENT AND
10 THE DEPARTMENT OF CORRECTIONS SHALL JOINTLY SUBMIT TO THE
11 JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF
12 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, AND TO THE
13 GOVERNOR A REPORT SPECIFYING THE FOLLOWING INFORMATION:

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

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

18 (c) THE TOTAL NUMBER OF SEXUALLY VIOLENT PREDATORS IN THE
19 CUSTODY OF THE DEPARTMENT OF CORRECTIONS AT THE TIME OF THE
20 REPORT, SPECIFYING THOSE IN INCARCERATION, THOSE HOUSED IN
21 COMMUNITY CORRECTIONS, AND THOSE ON PAROLE, INCLUDING THE LEVEL
22 OF SUPERVISION FOR EACH SEXUALLY VIOLENT PREDATOR ON PAROLE;

23 (d) THE LENGTH OF SENTENCE IMPOSED ON EACH SEXUALLY
24 VIOLENT PREDATOR IN THE CUSTODY OF THE DEPARTMENT OF
25 CORRECTIONS AT THE TIME OF THE REPORT;

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

1 (f) THE TOTAL NUMBER OF SEXUALLY VIOLENT PREDATORS ON
2 PROBATION AT THE TIME OF THE REPORT AND THE LEVEL OF SUPERVISION
3 OF EACH SEXUALLY VIOLENT PREDATOR ON PROBATION;

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

6 (h) ANY ADDITIONAL INFORMATION REQUESTED BY A MEMBER OF
7 THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF
8 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, OR BY THE
9 GOVERNOR.

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