

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
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BILL 1

LLS NO. 19-0168.01 Jane Ritter x4342

COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons
with Mental Health Disorders in the Criminal and Juvenile Justice
Systems**

BILL TOPIC: "Release Of Juvenile Records Sex Offender Registry"
DEADLINES: File by: 9/6/2018

A BILL FOR AN ACT

101 **CONCERNING LIMITING ACCESS TO JUVENILE RECORDS ON THE SEX**
102 **OFFENDER REGISTRY TO LAW ENFORCEMENT AGENCIES.**

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://leg.colorado.gov/>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems. The bill limits access to information concerning the records of juveniles who are on the sex offender registry (juveniles on the registry) to law enforcement agencies only. Information concerning the records of juveniles on the registry shall not be:

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

- Released pursuant to a request for a criminal history record check;
- Posted on the website hosted by the Colorado bureau of investigation or a local law enforcement agency; or
- Released by a local law enforcement agency to any person residing within or outside of the local law enforcement agency's jurisdiction.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-22-102, **amend**
3 (1); and **add** (1.5) and (4.2) as follows:

4 **16-22-102. Definitions.** As used in this article 22, unless the
5 context otherwise requires:

6 (1) ~~"Birthday" means a person's birthday as reflected on the notice~~
7 ~~provided to the person pursuant to section 16-22-106 or 16-22-107 or the~~
8 ~~person's actual date of birth if the notice does not reflect the person's~~
9 ~~birthday~~ "ADJUDICATED" OR "ADJUDICATION" MEANS A DETERMINATION
10 BY THE COURT THAT IT HAS BEEN PROVEN BEYOND A REASONABLE DOUBT
11 TO THE TRIER OF FACT THAT A JUVENILE HAS COMMITTED A DELINQUENT
12 ACT OR THAT A JUVENILE HAS PLED GUILTY TO COMMITTING A
13 DELINQUENT ACT. IN ADDITION, WHEN A PREVIOUS CONVICTION MUST BE
14 PLED AND PROVEN AS AN ELEMENT OF AN OFFENSE OR FOR PURPOSES OF
15 SENTENCE ENHANCEMENT, "ADJUDICATION" MEANS CONVICTION.

16 (1.5) "BIRTHDAY" MEANS A PERSON'S BIRTHDAY AS REFLECTED ON
17 THE NOTICE PROVIDED TO THE PERSON PURSUANT TO SECTION 16-22-106
18 OR 16-22-107 OR THE PERSON'S ACTUAL DATE OF BIRTH IF THE NOTICE
19 DOES NOT REFLECT THE PERSON'S BIRTHDAY.

20 (4.2) "JUVENILE" MEANS A PERSON WHO IS UNDER EIGHTEEN
21 YEARS OF AGE AT THE TIME OF THE OFFENSE.

22 **SECTION 2.** In Colorado Revised Statutes, 16-22-109, **amend**

1 (4) as follows:

2 **16-22-109. Registration forms - local law enforcement agencies**
3 **- duties - release of information.** (4) (a) EXCEPT AS PROVIDED IN
4 SUBSECTION (4)(b) OF THIS SECTION, the forms completed by persons
5 required to register pursuant to this ~~article shall be~~ ARTICLE 22 ARE
6 confidential and ~~shall not be~~ ARE NOT open to inspection by the public or
7 any person other than law enforcement personnel, except as provided in
8 sections 16-22-110 (6), 16-22-111, ~~and~~ 16-22-112, and ~~section~~
9 25-1-124.5. ~~C.R.S.~~

10 (b) IF THE PERSON REQUIRED TO REGISTER PURSUANT TO THIS
11 ARTICLE 22 IS A JUVENILE, THE FORMS COMPLETED PURSUANT TO THIS
12 SECTION ARE CONFIDENTIAL AND ARE NOT OPEN TO INSPECTION BY THE
13 PUBLIC OR ANY PERSON OTHER THAN LAW ENFORCEMENT PERSONNEL.

14 **SECTION 3.** In Colorado Revised Statutes, 16-22-110, **amend**
15 (6)(a), (6)(b), and (6)(c) as follows:

16 **16-22-110. Colorado sex offender registry - creation -**
17 **maintenance - release of information - legislative declaration.**

18 (6) (a) The general assembly ~~hereby~~ recognizes the need to balance the
19 ~~expectations of persons convicted of offenses involving unlawful sexual~~
20 ~~behavior and the public's need to adequately protect themselves and their~~
21 ~~children from these persons~~ POTENTIAL HARM OF PUBLIC REGISTRATION
22 TO PERSONS OR JUVENILES CONVICTED OR ADJUDICATED OF OFFENSES
23 INVOLVING UNLAWFUL SEXUAL BEHAVIOR AND THE PUBLIC'S NEED TO BE
24 ADEQUATELY INFORMED, SO THAT THE PUBLIC MIGHT PROTECT
25 THEMSELVES AND THEIR CHILDREN FROM POTENTIAL HARM CAUSED BY
26 PERSONS WHO MIGHT REOFFEND, as expressed in section 16-22-112 (1).
27 The general assembly declares, however, that, in making information

1 concerning persons convicted of offenses involving unlawful sexual
2 behavior available to the public, it is not the general assembly's intent that
3 the information be used to inflict retribution or additional punishment on
4 any person OR JUVENILE convicted OR ADJUDICATED of unlawful sexual
5 behavior or of another offense, the underlying factual basis of which
6 involves unlawful sexual behavior.

7 (b) Pursuant to a request for a criminal history RECORD check
8 under the provisions of part 3 of article 72 of title 24, ~~C.R.S.~~, UNLESS THE
9 PERSON WHO IS THE SUBJECT OF THE CRIMINAL HISTORY RECORD CHECK
10 IS A JUVENILE, the CBI may inform the requesting party as to whether ~~the~~
11 SUCH person ~~who is the subject of the criminal history check~~ is on the sex
12 offender registry. IF SUCH PERSON IS A JUVENILE, THE CBI SHALL NOT
13 RELEASE SUCH INFORMATION TO A PERSON OR ENTITY OTHER THAN A
14 LOCAL LAW ENFORCEMENT AGENCY.

15 (c) A person may request from the CBI a list of persons on the sex
16 offender registry, WHICH LIST MUST NOT INCLUDE JUVENILE OFFENDERS.

17 **SECTION 4.** In Colorado Revised Statutes, 16-22-111, **amend**
18 (1) introductory portion as follows:

19 **16-22-111. Internet posting of sex offenders - procedure.**

20 (1) The CBI shall post a link on the state of Colorado home page on the
21 internet to a list containing the names, addresses, and physical
22 descriptions of certain persons and descriptions of the offenses committed
23 by said persons. A person's physical description ~~shall~~ MUST include, but
24 need not be limited to, the person's sex, height, and weight; any
25 identifying characteristics of the person; and a digitized photograph or
26 image of the person. The list ~~shall~~ MUST specifically exclude any
27 reference to any victims of the offenses. The list ~~shall~~ MUST SPECIFICALLY

1 EXCLUDE JUVENILE OFFENDERS BUT MUST include the following persons:

2 **SECTION 5.** In Colorado Revised Statutes, 16-22-112, **amend**
3 (1), (2)(a), (2)(b), and (3)(b) as follows:

4 **16-22-112. Release of information - law enforcement agencies**
5 **- legislative declaration.** (1) (a) The general assembly finds that persons
6 convicted of offenses involving unlawful sexual behavior have a reduced
7 expectation of privacy because of the public's interest in public safety.
8 The general assembly further finds that the public must have access to
9 information concerning persons convicted of offenses involving unlawful
10 sexual behavior that is collected pursuant to this ~~article~~ ARTICLE 22 to
11 allow them to adequately protect themselves and their children from these
12 persons.

13 (b) The general assembly declares, however, that, in making this
14 information available to the public, as provided in this section and section
15 16-22-110 (6), it is not the general assembly's intent that the information
16 be used to inflict retribution or additional punishment on any person OR
17 JUVENILE convicted OR ADJUDICATED of unlawful sexual behavior or of
18 another offense, the underlying factual basis of which involves unlawful
19 sexual behavior.

20 (2) (a) A local law enforcement agency shall release information
21 regarding any person, EXCEPT FOR A JUVENILE, registered with the local
22 law enforcement agency pursuant to this ~~article~~ ARTICLE 22 to any person
23 residing within the local law enforcement agency's jurisdiction. In
24 addition, the local law enforcement agency may post the information
25 specified in ~~paragraph (b) of this subsection (2)~~ SUBSECTION (2)(b) OF
26 THIS SECTION on the law enforcement agency's website.

27 (b) A local law enforcement agency may post on its website sex

1 offender registration information of a person from its registration list only
2 if the person is:

3 (I) An adult convicted of a felony requiring the adult to register
4 pursuant to section 16-22-103; OR

5 (II) An adult convicted of a second or subsequent offense of any
6 of the following misdemeanors:

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

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

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

12 (D) Sexual exploitation of a child by possession of sexually
13 exploitive material as described in section 18-6-403; ~~C.R.S.~~;

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

16 (F) Sexual conduct in a correctional institution as described in
17 section 18-7-701. ~~C.R.S.~~;

18 ~~(III) A juvenile with a second or subsequent adjudication
19 involving unlawful sexual behavior or for a crime of violence as defined
20 in section 18-1.3-406, C.R.S.; or~~

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

25 (3) (b) At its discretion, a local law enforcement agency may
26 release information regarding any person, EXCEPT FOR A JUVENILE,
27 registered with the local law enforcement agency pursuant to this article

1 ARTICLE 22 to any person who does not reside within the local law
2 enforcement agency's jurisdiction or may post the information specified
3 in ~~paragraph (b) of subsection (2)~~ SUBSECTION (2)(b) of this section on
4 the law enforcement agency's website. If a local law enforcement agency
5 does not elect to release information regarding any person registered with
6 the local law enforcement agency to a person not residing within the local
7 law enforcement agency's jurisdiction, the local law enforcement agency
8 may submit a request from the person to the CBI.

9 **SECTION 6. 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.