

## CHAPTER 176

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**CRIMINAL LAW AND PROCEDURE**

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**SENATE BILL 01-210**

BY SENATOR(S) Arnold, Dyer (Arapahoe), Epps, Evans, Hillman, Teck, Anderson, Andrews, Cairns, Chlouber, May, McElhany, Musgrave;  
also REPRESENTATIVE(S) Mitchell, Boyd, Crane, Dean, Fairbank, Hefley, Jahn, Lee, Nuñez, Rhodes, Romanoff, Schultheis, Spradley, and Williams, S.

**AN ACT**

CONCERNING PENALTIES FOR THE OFFENSE OF FAILURE TO REGISTER AS A SEX OFFENDER, AND MAKING AN APPROPRIATION THEREFOR.

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Studies show that the recidivism rate for certain persons who are convicted of unlawful sexual behavior is significantly higher than for persons who are convicted of other crimes;

(b) Persons who are convicted of unlawful sexual behavior and subsequently released into the community with little or no supervision can pose an extreme danger to society, especially to children, who are most in need of society's protection;

(c) Unlawful sexual behavior takes a devastating toll on society, creating victims who, though they may recover from the physical injuries they receive, often suffer from psychological trauma and injury that continues throughout their lives, affecting their personal and social relationships and their ability to fully participate in and contribute to society;

(d) Requiring persons who are convicted of unlawful sexual behavior to periodically and consistently register with their local law enforcement agencies is a necessary step in reducing the danger posed by these persons;

(e) Studies show that most persons who engage in unlawful sexual behavior

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

develop a pattern of actions that lead up to the offense and that refusing to register as a sex offender is, in certain cases, an early step in following that pattern and often leads, ultimately, to a subsequent offense of unlawful sexual behavior;

(f) Imposing a significant penalty for failure to register as a sex offender is likely to result in greater compliance with the sex offender registration requirements and more effective law enforcement and will provide a more effective mechanism for early intervention with a person before that person's pattern of actions culminates in creation of another victim of unlawful sexual behavior.

(2) The general assembly therefore finds that failure to register as a sex offender is a serious offense that requires imposition of a significant penalty in order to adequately protect the public safety.

**SECTION 2.** 18-3-412.5 (4) (b) and (4) (c), Colorado Revised Statutes, are amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (4) (b) (I) Failure to register as a sex offender is a ~~class 2 misdemeanor; except that, in addition to any other penalty provided by section 18-1-106, a person shall be sentenced to a ninety-day mandatory minimum jail sentence. Any second or subsequent offense is a class 6 felony; except that, in addition to any other penalty provided by section 18-1-105, a person shall be sentenced to a one-year mandatory minimum sentence to the department of corrections.~~ CLASS 6 FELONY IF THE PERSON WAS CONVICTED OF FELONY UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE FELONY UNLAWFUL SEXUAL BEHAVIOR IF COMMITTED BY AN ADULT; EXCEPT THAT ANY SECOND OR SUBSEQUENT OFFENSE OF FAILURE TO REGISTER AS A SEX OFFENDER BY SUCH PERSON IS A CLASS 5 FELONY. ANY PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER SHALL BE SENTENCED PURSUANT TO THE PROVISIONS OF SECTION 18-1-105. IF SUCH PERSON IS SENTENCED TO PROBATION, THE COURT SHALL REQUIRE, AS A CONDITION OF PROBATION, THAT THE PERSON PARTICIPATE UNTIL FURTHER ORDER OF THE COURT IN AN INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED PURSUANT TO SECTION 16-13-807, C.R.S. IF SUCH PERSON IS SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON PAROLE, THE PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, THAT THE PERSON PARTICIPATE IN AN INTENSIVE SUPERVISION PAROLE PROGRAM ESTABLISHED PURSUANT TO SECTION 16-13-805, C.R.S.

(II) FAILURE TO REGISTER AS A SEX OFFENDER IS A CLASS 1 MISDEMEANOR IF THE PERSON WAS CONVICTED OF MISDEMEANOR UNLAWFUL SEXUAL BEHAVIOR OR ADJUDICATED FOR AN OFFENSE THAT WOULD CONSTITUTE MISDEMEANOR UNLAWFUL SEXUAL BEHAVIOR IF COMMITTED BY AN ADULT.

(c) (I) Any juvenile adjudicated for the delinquent act of failure to register as a sex offender THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT shall be sentenced to a forty-five-day mandatory minimum detention sentence; EXCEPT THAT any juvenile adjudicated for ~~the class 6 felony offense~~ A SECOND OR SUBSEQUENT DELINQUENT ACT of failure to register as a sex offender THAT WOULD CONSTITUTE A FELONY IF COMMITTED BY AN ADULT shall be placed or committed out of the home for not less than one year.

(II) ANY JUVENILE ADJUDICATED FOR THE DELINQUENT ACT OF FAILURE TO REGISTER AS A SEX OFFENDER THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT SHALL BE SENTENCED TO A THIRTY-DAY MANDATORY MINIMUM DETENTION SENTENCE; EXCEPT THAT ANY JUVENILE ADJUDICATED FOR A SECOND OR SUBSEQUENT DELINQUENT ACT OF FAILURE TO REGISTER AS A SEX OFFENDER THAT WOULD CONSTITUTE A MISDEMEANOR IF COMMITTED BY AN ADULT SHALL BE SENTENCED TO A FORTY-FIVE-DAY MANDATORY MINIMUM DETENTION SENTENCE.

**SECTION 3.** 18-1-106 (3) (b) (III) and (3) (b) (V), Colorado Revised Statutes, are amended, and the said 18-1-106 (3) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**18-1-106. Misdemeanors classified - penalties.** (3) (b) Misdemeanors that present an extraordinary risk of harm to society shall include the following:

(III) Child abuse, as defined in section 18-6-401 (7) (a) (V); ~~and~~

(V) Second and all subsequent violations of a restraining order as defined in section 18-6-803.5 (1.5) (d); AND

(VI) MISDEMEANOR FAILURE TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (II).

**SECTION 4.** 16-13-805, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**16-13-805. Parole - intensive supervision program.** (1.5) IN ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE PAROLE BOARD SHALL REQUIRE, AS A CONDITION OF PAROLE, ANY PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S., WHO IS SENTENCED TO INCARCERATION AND SUBSEQUENTLY RELEASED ON PAROLE, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PAROLE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

**SECTION 5.** 16-13-807, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**16-13-807. Probation - intensive supervision program.** (1.5) IN ADDITION TO THE PERSONS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE COURT SHALL REQUIRE ANY PERSON CONVICTED OF FELONY FAILURE TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5 (4) (b) (I), C.R.S., AND SENTENCED TO PROBATION TO PARTICIPATE, AS A CONDITION OF PROBATION AND UNTIL FURTHER ORDER OF THE COURT, IN THE INTENSIVE SUPERVISION PROBATION PROGRAM ESTABLISHED PURSUANT TO THIS SECTION.

**SECTION 6.** Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-1-133. Appropriation to comply with section 2-2-703 - S.B. 01-210.**  
(1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY

APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT S.B. 01-210, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF FOUR HUNDRED SIXTY-SIX THOUSAND EIGHT DOLLARS (\$466,008).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF ONE HUNDRED SEVENTY-SIX THOUSAND THIRTEEN DOLLARS (\$176,013).

**SECTION 7.** 24-75-302 (2) (n), Colorado Revised Statutes, is amended to read:

**24-75-302. Capital construction fund - capital assessment fees - calculation.**

(2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 2005, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(n) On July 1, 2001, one hundred million dollars, plus one hundred fifty-four thousand six hundred thirty-six dollars pursuant to H.B. 97-1186; plus nine hundred five thousand seven hundred twenty-three dollars pursuant to H.B. 97-1077, enacted at the first regular session of the sixty-first general assembly; plus nine thousand eight hundred ninety dollars pursuant to S.B. 98-021, enacted at the second regular session

of the sixty-first general assembly; plus three hundred forty-nine thousand fifty-five dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; plus three hundred twenty-six thousand thirty-two dollars pursuant to H.B. 00-1107, enacted at the second regular session of the sixty-second general assembly; plus ninety-seven thousand two hundred fifty-four dollars pursuant to H.B. 00-1111, enacted at the second regular session of the sixty-second general assembly; plus two hundred ninety-one thousand seven hundred sixty-one dollars pursuant to H.B. 00-1158, enacted at the second regular session of the sixty-second general assembly; plus one million one hundred sixteen thousand nine hundred seventy-one dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus four hundred sixteen thousand eight hundred two dollars pursuant to H.B. 00-1214, enacted at the second regular session of the sixty-second general assembly; plus sixty-nine thousand four hundred sixty-seven dollars pursuant to H.B. 00-1247, enacted at the second regular session of the sixty-second general assembly; PLUS FOUR HUNDRED SIXTY-SIX THOUSAND EIGHT DOLLARS PURSUANT TO S.B. 01-210, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

**SECTION 8. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of moneys in the offender services fund, created in section 16-11-214, Colorado Revised Statutes, not otherwise appropriated, to the judicial department, probation and related services, sex offender intensive supervision program, for the fiscal year beginning July 1, 2001, the sum of thirty-six thousand sixty dollars (\$36,060) and 0.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 9. Effective date - applicability.** This act shall take effect upon passage, and shall apply to offenses committed on or after said date.

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

Approved: May 29, 2001