

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

DRAFT
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BILL 17

LLS NO. 18-0313.01 Michael Dohr x4347

INTERIM COMMITTEE BILL

Sentencing in the Criminal Justice System Interim Study Committee

BILL TOPIC: "Make Sex Offender Registration More Effective"

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO MAKE SEX OFFENDER REGISTRATION**
102 **MORE EFFECTIVE.**

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/>.)

Sentencing in the Criminal Justice System Interim Study Committee. Under current law, a person who is required to register as a sex offender (registrant) in Colorado because of a sex crime conviction must still register in Colorado even if the person's duty to register is terminated in the state of conviction. The bill states that if a registrant is no longer required to register in the state of his or her conviction, then the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

duty to register in Colorado is also discontinued.

In addition, a registrant is required to register in person at his or her local law enforcement agency. The bill allows the law enforcement agency to waive the in-person registration requirement after initial registration if the person suffers from a physical or intellectual disability to the extent that it is a severe hardship to register in person. If the waiver is authorized, the law enforcement agency must register the registrant after verifying the registrant's address and provide written documentation of the waiver to the Colorado bureau of investigation and any other law enforcement agency with which the person registers.

Under current law, specified registrants can file a petition to discontinue registration. The bill requires the court to grant a petition to discontinue registration if the registrant has successfully completed his or her sentence, the registrant has not been convicted of a subsequent sex offense, and the required waiting period has expired unless the prosecuting attorney or victim objects and presents clear and convincing evidence that the registrant is likely to commit a subsequent offense of unlawful sexual behavior.

Notwithstanding any statutory barriers to the contrary, the bill allows a registrant or his or her legal representative to file a petition to discontinue registration if the registrant is incapacitated and does not present an unacceptable public safety risk. The court shall grant the petition if the petitioner shows that the registrant is incapacitated, does not present an unacceptable public safety risk, and is not likely to commit a subsequent sex offense.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-22-103, **amend**
3 (3) as follows:

4 **16-22-103. Sex offender registration - required - applicability**
5 **- exception.** (3) In addition to the persons specified in subsections (1)
6 and (2) of this section, any person convicted of an offense in any other
7 state or jurisdiction, including but not limited to a military or federal
8 jurisdiction, for which the person, as a result of the conviction, ~~is, was,~~
9 ~~has been,~~ or would be required to register if he or she resided in the state
10 or jurisdiction of conviction, or for which such person would be required
11 to register if convicted in Colorado, shall be required to register in the

1 manner specified in section 16-22-108, so long as such person is a
2 temporary or permanent resident of Colorado. Such person may petition
3 the court for an order that discontinues the requirement for registration in
4 this state at the times specified in section 16-22-113 for offense
5 classifications that are comparable to the classification of the offense for
6 which the person was convicted in the other state or jurisdiction. IF THE
7 PERSON'S DUTY TO REGISTER IN THE STATE OR JURISDICTION OF
8 CONVICTION HAS BEEN DISCONTINUED BY A COURT OR OTHER OPERATION
9 OF LAW, THE PERSON IS NOT REQUIRED TO REGISTER IN COLORADO AFTER
10 HE OR SHE HAS FILED DOCUMENTATION WITH THE CBI DEMONSTRATING
11 THAT HE OR SHE IS NO LONGER REQUIRED TO REGISTER IN THE STATE OR
12 JURISDICTION OF CONVICTION.

13 **SECTION 2.** In Colorado Revised Statutes, 16-22-108, **amend**
14 (1)(a)(II) and (1)(d)(I) as follows:

15 **16-22-108. Registration - procedure - frequency - place -**
16 **change of address - fee.** (1) (a) (II) Each person who is required to
17 register pursuant to section 16-22-103 shall initially register or, if
18 sentenced on or after January 1, 2005, confirm his or her initial
19 registration within five business days after release from incarceration for
20 commission of the offense requiring registration or within five business
21 days after receiving notice of the duty to register, if the person was not
22 incarcerated. The person shall register with the local law enforcement
23 agency during business hours by completing a standardized registration
24 form provided to the person by the local law enforcement agency and
25 paying the registration fee imposed by the local law enforcement agency
26 as provided in subsection (7) of this section. AFTER THE INITIAL
27 REGISTRATION, THE LOCAL LAW ENFORCEMENT AGENCY MAY WAIVE THE

1 REQUIREMENT THAT THE PERSON REGISTER IN PERSON IF THE REGISTRANT
2 SUFFERS FROM A PHYSICAL OR INTELLECTUAL DISABILITY TO THE EXTENT
3 THAT IT IS A SEVERE HARDSHIP TO REGISTER IN PERSON. IF THE LAW
4 ENFORCEMENT AGENCY WAIVES THE REQUIREMENT TO REGISTER IN
5 PERSON, THE LAW ENFORCEMENT AGENCY SHALL REGISTER THE PERSON
6 AFTER VERIFYING THE PERSON'S CURRENT ADDRESS WITH THE PERSON, HIS
7 OR HER CAREGIVER, HIS OR HER FAMILY, THE FACILITY WHERE THE PERSON
8 RESIDES, OR OTHER SOURCE OF VERIFICATION SATISFACTORY TO THE LAW
9 ENFORCEMENT AGENCY. THE LAW ENFORCEMENT AGENCY SHALL PROVIDE
10 WRITTEN VERIFICATION OF THE WAIVER TO THE CBI AND ANY OTHER LAW
11 ENFORCEMENT AGENCY WITH WHICH THE REGISTRANT IS REQUIRED TO
12 REGISTER. The CBI shall provide standardized registration forms to the
13 local law enforcement agencies pursuant to section 16-22-109.

14 (d) (I) Any person who is a sexually violent predator and any
15 person who is convicted as an adult of any of the offenses specified in
16 ~~subparagraph (H) of this paragraph (d)~~ SUBSECTION (1)(d)(II) OF THIS
17 SECTION has a duty to register for the remainder of his or her natural life;
18 except that, if the person receives a deferred judgment and sentence for
19 one of the offenses specified in ~~subparagraph (H) of this paragraph (d)~~,
20 ~~the person may petition the court for discontinuation of the duty to~~
21 ~~register~~ SUBSECTION (1)(d)(II) OF THIS SECTION, THE PERSON'S DUTY TO
22 REGISTER MAY DISCONTINUE as provided in section 16-22-113 (1)(d). In
23 addition to registering as required in ~~paragraph (a) of this subsection (1)~~
24 SUBSECTION (1)(a) OF THIS SECTION, the person shall reregister within five
25 business days before or after the date that is three months after the date
26 on which the person was released from incarceration for commission of
27 the offense requiring registration or, if the person was not incarcerated,

1 after the date on which he or she received notice of the duty to register.
2 The person shall register within five business days before or after that
3 date every three months thereafter until the person's birthday. The person
4 shall reregister within five business days before or after his or her next
5 birthday and shall reregister within five business days before or after that
6 date every three months thereafter. The person shall reregister pursuant
7 to this ~~paragraph (d)~~ SUBSECTION (1)(d) with the local law enforcement
8 agency of each jurisdiction in which the person resides or in any
9 jurisdiction if the person lacks a fixed residence on the reregistration date,
10 in the manner provided in ~~paragraph (a) of this subsection (1)~~
11 SUBSECTION (1)(a) OF THIS SECTION.

12 **SECTION 3.** In Colorado Revised Statutes, 16-22-113, **amend**
13 **(1.5), (3)(b)(I), and (3)(c); add (2.5); and repeal and reenact, with**
14 **amendments,** (2) as follows:

15 **16-22-113. Petition for removal from registry.** (1.5) If the
16 conviction that requires a person to register pursuant to the provisions of
17 section 16-22-103 was not obtained from a Colorado court, the person
18 seeking to discontinue registration or internet posting or both may file a
19 civil case with the district court of the judicial district in which the person
20 resides and seek a civil order to discontinue the requirement to register or
21 internet posting or both under the circumstances specified in subsection
22 (1) of this section OR COMPLY WITH THE REQUIREMENTS OF SECTION
23 16-22-103 (3) WHEN THE PERSON'S DUTY TO REGISTER HAS BEEN
24 DISCONTINUED BY THE STATE OR JURISDICTION OF CONVICTION.

25 (2) (a) A REGISTRANT WHO IS ELIGIBLE TO PETITION PURSUANT TO
26 THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION MUST FILE A PETITION
27 WITH THE COURT OF PROPER JURISDICTION AND SHALL PROVIDE A COPY OF

1 THE PETITION BY CERTIFIED MAIL TO EACH OF THE FOLLOWING PARTIES:

2 (I) EACH LAW ENFORCEMENT AGENCY WITH WHICH THE
3 REGISTRANT IS REQUIRED TO REGISTER;

4 (II) THE DISTRICT ATTORNEY FOR THE JURISDICTION IN WHICH THE
5 PETITION TO DISCONTINUE REGISTRATION HAS BEEN FILED; AND

6 (III) THE PROSECUTING ATTORNEY WHO OBTAINED THE
7 CONVICTION OF THE REGISTRANT.

8 (b) WITHIN TWENTY-ONE DAYS AFTER FILING THE PETITION, THE
9 PETITIONER SHALL FILE WITH THE COURT COPIES OF THE RETURN RECEIPTS
10 RECEIVED FROM EACH PARTY NOTIFIED AND ANY DOCUMENTS SUPPORTING
11 HIS OR HER ELIGIBILITY TO PETITION TO DISCONTINUE REGISTRATION.

12 (c) UPON RECEIPT OF THE PETITION, THE COURT SHALL SET A DATE
13 FOR A HEARING AND SHALL NOTIFY THE PETITIONER AND THE DISTRICT
14 ATTORNEY FOR THAT JURISDICTION OF THE HEARING DATE. THE DISTRICT
15 ATTORNEY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR WHICH THE
16 PETITIONER WAS REQUIRED TO REGISTER PURSUANT TO SECTION
17 24-4.1-303 (11)(b).

18 (d) IF THE DISTRICT ATTORNEY OR THE VICTIM OBJECTS TO THE
19 REGISTRANT'S PETITION, THE DISTRICT ATTORNEY SHALL FILE THE
20 OBJECTION WITH THE COURT WITHIN SIXTY-THREE DAYS AFTER RECEIVING
21 THE NOTICE OF THE PETITION.

22 (e) IF NO OBJECTION IS FILED BY THE DISTRICT ATTORNEY, THE
23 COURT MAY CONSIDER THE PETITION WITHOUT A HEARING AND SHALL
24 GRANT THE PETITION IF THE COURT FINDS THAT THE PETITIONER HAS
25 COMPLETED THE SENTENCE FOR WHICH HE OR SHE WAS REQUIRED TO
26 REGISTER, THE PETITIONER HAS NOT SUBSEQUENTLY BEEN CONVICTED OF
27 UNLAWFUL SEXUAL BEHAVIOR OR OF ANY OTHER OFFENSE, THE

1 UNDERLYING BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL BEHAVIOR,
2 AND THE WAITING TIME PERIOD DESCRIBED IN SUBSECTION (1) OF THIS
3 SECTION HAS EXPIRED.

4 (f) IF THERE IS OBJECTION TO THE PETITION, THE COURT SHALL
5 CONDUCT A HEARING ON THE PETITION. IF THE COURT FINDS THE
6 PETITIONER HAS COMPLETED THE SENTENCE FOR WHICH HE OR SHE IS
7 REQUIRED TO REGISTER, THE PETITIONER HAS NOT SUBSEQUENTLY BEEN
8 CONVICTED OF UNLAWFUL SEXUAL BEHAVIOR OR OF ANY OTHER OFFENSE,
9 THE UNDERLYING BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL
10 BEHAVIOR, AND THE WAITING TIME PERIOD DESCRIBED IN SUBSECTION (1)
11 OF THIS SECTION HAS EXPIRED, THE COURT SHALL GRANT THE PETITION TO
12 DISCONTINUE REGISTRATION UNLESS THE DISTRICT ATTORNEY PRESENTS
13 CLEAR AND CONVINCING EVIDENCE THAT THE PETITIONER IS LIKELY TO
14 COMMIT A SUBSEQUENT OFFENSE OF OR INVOLVING UNLAWFUL SEXUAL
15 BEHAVIOR.

16 (g) IF THE COURT ENTERS AN ORDER DISCONTINUING
17 REGISTRATION, THE PETITIONER SHALL PROVIDE A COPY OF THE ORDER TO
18 EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE PETITIONER IS
19 REGISTERED AND THE CBI. THE DISTRICT ATTORNEY SHALL NOTIFY THE
20 VICTIM AS PROVIDED IN SECTION 24-4.1-303 (11)(b).

21 (h) ON RECEIPT OF A COPY OF AN ORDER DISCONTINUING A
22 PETITIONER'S DUTY TO REGISTER:

23 (I) THE CBI SHALL REMOVE THE PETITIONER'S SEX OFFENDER
24 REGISTRATION INFORMATION FROM THE SEX OFFENDER REGISTRY; AND

25 (II) THE LOCAL LAW ENFORCEMENT AGENCY SHALL REMOVE THE
26 PETITIONER'S SEX OFFENDER REGISTRATION INFORMATION FROM THE
27 LOCAL SEX OFFENDER REGISTRY.

1 (2.5) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
2 THE CONTRARY, A REGISTRANT OR HIS OR HER LEGAL REPRESENTATIVE
3 MAY FILE A PETITION TO DISCONTINUE REGISTRATION IF THE REGISTRANT
4 SUFFERS FROM A SEVERE DISABILITY TO THE EXTENT THAT HE OR SHE IS
5 INCAPACITATED AND DOES NOT PRESENT AN UNACCEPTABLE RISK TO
6 PUBLIC SAFETY.

7 (b) THE REGISTRANT OR HIS OR HER LEGAL REPRESENTATIVE MUST
8 FILE A PETITION WITH THE COURT OF PROPER JURISDICTION AND SHALL
9 PROVIDE A COPY OF THE PETITION BY CERTIFIED MAIL TO EACH OF THE
10 FOLLOWING PARTIES:

11 (I) EACH LAW ENFORCEMENT AGENCY WITH WHICH THE
12 REGISTRANT IS REQUIRED TO REGISTER;

13 (II) THE DISTRICT ATTORNEY FOR THE JURISDICTION IN WHICH THE
14 PETITION TO DISCONTINUE REGISTRATION HAS BEEN FILED; AND

15 (III) THE PROSECUTING ATTORNEY WHO OBTAINED THE
16 CONVICTION OF THE REGISTRANT.

17 (c) WITHIN TWENTY-ONE DAYS AFTER FILING THE PETITION, THE
18 PETITIONER SHALL FILE WITH THE COURT COPIES OF THE RETURN RECEIPTS
19 RECEIVED FROM EACH PARTY NOTIFIED AND ANY DOCUMENTS SUPPORTING
20 HIS OR HER ELIGIBILITY TO PETITION TO DISCONTINUE REGISTRATION.

21 (d) UPON RECEIPT OF THE PETITION, THE COURT SHALL SET A DATE
22 FOR A HEARING AND SHALL NOTIFY THE PETITIONER AND THE DISTRICT
23 ATTORNEY FOR THAT JURISDICTION OF THE HEARING DATE. THE DISTRICT
24 ATTORNEY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR WHICH THE
25 PETITIONER WAS REQUIRED TO REGISTER PURSUANT TO SECTION
26 24-4.1-303 (11)(b).

27 (e) IF THE DISTRICT ATTORNEY OR THE VICTIM OBJECTS TO THE

1 REGISTRANT'S PETITION, THE DISTRICT ATTORNEY SHALL FILE THE
2 OBJECTION WITH THE COURT WITHIN SIXTY-THREE DAYS OF RECEIVING THE
3 NOTICE OF THE PETITION.

4 (f) IF NO OBJECTION IS FILED BY THE DISTRICT ATTORNEY, THE
5 COURT MAY CONSIDER THE PETITION WITHOUT A HEARING AND SHALL
6 GRANT THE PETITION IF THE COURT FINDS THE PETITIONER IS
7 INCAPACITATED, DOES NOT PRESENT AN UNACCEPTABLE RISK TO PUBLIC
8 SAFETY, AND IS NOT LIKELY TO COMMIT A SUBSEQUENT OFFENSE OF OR
9 INVOLVING UNLAWFUL SEXUAL BEHAVIOR.

10 (g) IF THERE IS OBJECTION TO THE PETITION, THE COURT SHALL
11 CONDUCT A HEARING ON THE PETITION. THE COURT SHALL GRANT THE
12 PETITION IF THE COURT FINDS THE PETITIONER IS INCAPACITATED, DOES
13 NOT PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY, AND IS NOT
14 LIKELY TO COMMIT A SUBSEQUENT OFFENSE OF OR INVOLVING UNLAWFUL
15 SEXUAL BEHAVIOR.

16 (h) IF THE COURT ENTERS AN ORDER DISCONTINUING
17 REGISTRATION, THE PETITIONER SHALL PROVIDE A COPY OF THE ORDER TO
18 EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE PETITIONER IS
19 REGISTERED AND THE CBI. THE DISTRICT ATTORNEY SHALL NOTIFY THE
20 VICTIM AS PROVIDED IN SECTION 24-4.1-303 (11)(b).

21 (i) ON RECEIPT OF A COPY OF AN ORDER DISCONTINUING A
22 PETITIONER'S DUTY TO REGISTER:

23 (I) THE CBI SHALL REMOVE THE PETITIONER'S SEX OFFENDER
24 REGISTRATION INFORMATION FROM THE SEX OFFENDER REGISTRY; AND

25 (II) THE LOCAL LAW ENFORCEMENT AGENCY SHALL REMOVE THE
26 PETITIONER'S SEX OFFENDER REGISTRATION INFORMATION FROM THE
27 LOCAL SEX OFFENDER REGISTRY.

1 (3) The following persons ~~shall not be~~ ARE NOT eligible for relief
2 pursuant to this section, but shall be subject for the remainder of their
3 natural lives to the registration requirements specified in this article or to
4 the comparable requirements of any other jurisdictions in which they may
5 reside:

6 (b) Any person who is convicted as an adult of:

7 (I) FELONY sexual assault, in violation of section 18-3-402;
8 ~~C.R.S.~~, or sexual assault in the first degree, in violation of section
9 18-3-402, ~~C.R.S.~~, as it existed prior to July 1, 2000; or sexual assault in
10 the second degree, in violation of section 18-3-403, ~~C.R.S.~~, as it existed
11 prior to July 1, 2000; or

12 (c) Any adult who ~~has more than one~~ IS SUBSEQUENTLY
13 CONVICTED OF ENGAGING IN UNLAWFUL SEXUAL BEHAVIOR IN A MATTER
14 SEPARATELY BROUGHT AND TRIED FOLLOWING A conviction or
15 adjudication for unlawful sexual behavior in this state or any other
16 jurisdiction.

17 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
18 (1)(b.7) as follows:

19 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
20 order to preserve and protect a victim's rights to justice and due process,
21 each victim of a crime has the following rights:

22 (b.7) For a victim of a sex offense, the right to be informed of the
23 filing of a petition by the perpetrator of the offense to terminate sex
24 offender registration pursuant to section 16-22-113 ~~(2)(c)~~, ~~C.R.S.~~ (2) AND
25 (2.5);

26 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-303, **amend**
27 (11)(b) and (14.7)(b) as follows:

1 **24-4.1-303. Procedures for ensuring rights of victims of**
2 **crimes.** (11) The district attorney shall inform a victim of the following:

3 (b) Any of the critical stages specified in section 24-4.1-302 (2)(a)
4 to (2)(j), ~~and~~ (2)(l), AND (2)(r) of a criminal proceeding relating to a
5 person accused of a crime against the victim; except that the district
6 attorney shall not be obligated to inform the victim of any appellate
7 review undertaken by the attorney general's office;

8 (14.7) (b) The court shall notify the victim of petitions filed by sex
9 offenders to cease sex offender registration pursuant to section 16-22-113
10 ~~(2)(c), C.R.S.~~ (2) AND (2.5).

11 **SECTION 6. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.