

CHAPTER 290

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 94-1192

BY REPRESENTATIVES Fleming, Adkins, Allen, Armstrong, Benavidez, Berry, Blue, DeGette, Epps, Faatz, Friednash, Greenwood, Hagedorn, Hernandez, Kaufman, Kerns, Lawrence, Lyle, Mattingly, Morrison, Nichol, Pierson, Prinster, Reeser, Rupert, Snyder, Taylor, Tucker, Williams, and Wright;
also SENATORS Wham, Bird, Bishop, Gallagher, Hopper, Mares, Mendez, Norton, L. Powers, Rizzuto, Ruddick, Schroeder, Traylor, and Wells.

AN ACT**CONCERNING THE DUTY OF SEX OFFENDERS TO REGISTER WITH LOCAL LAW ENFORCEMENT AGENCIES.**

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

SECTION 1. 18-3-412.5, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

18-3-412.5. Sex offenders - duty to register - penalties. (1) ON AND AFTER JULY 1, 1994, ANY PERSON WHO IS CONVICTED IN THE STATE OF COLORADO OF AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DESCRIBED IN THIS PART 4 OR THE OFFENSE DESCRIBED IN SECTION 18-3-305, AND ANY PERSON WHO HAS BEEN CONVICTED, ON AND AFTER JULY 1, 1994, IN ANY OTHER STATE OF AN OFFENSE WHICH, IF COMMITTED IN THE STATE OF COLORADO, WOULD CONSTITUTE AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DESCRIBED IN THIS PART 4 OR WOULD CONSTITUTE THE OFFENSE DESCRIBED IN SECTION 18-3-305, OR ANY PERSON WHO IS RELEASED FROM THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS HAVING COMPLETED SERVING A SENTENCE FOR AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DESCRIBED IN THIS PART 4 OR FOR THE OFFENSE DESCRIBED IN SECTION 18-3-305, SHALL BE REQUIRED TO REGISTER IN THE MANNER PRESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(2) ON AND AFTER JULY 1, 1994, PROBATION AND PAROLE OFFICERS AND APPROPRIATE PERSONNEL WITH THE DEPARTMENT OF CORRECTIONS SHALL REQUIRE ANY OFFENDER DESCRIBED IN SUBSECTION (1) OF THIS SECTION WHO IS UNDER THEIR

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

JURISDICTION TO SIGN A NOTICE THAT INFORMS THE OFFENDER OF THE DUTY TO REGISTER WITH LOCAL LAW ENFORCEMENT AGENCIES IN ACCORDANCE WITH THIS SECTION. THE SAME PERSONS, AFTER OBTAINING A SIGNED NOTICE FROM AN OFFENDER, SHALL NOTIFY LOCAL LAW ENFORCEMENT AGENCIES WHERE THE OFFENDER PLANS TO RESIDE OF THE OFFENDER'S ADDRESS WITHIN FORTY-EIGHT HOURS AFTER AN OFFENDER HAS BEEN PLACED ON PAROLE OR PROBATION WHEN SUCH AN ADDRESS IS PROVIDED IN THE SIGNED NOTICE. DEPARTMENT OF CORRECTIONS PERSONNEL SHALL PROVIDE SUCH NOTICE NO LATER THAN TWO DAYS BEFORE THE OFFENDER IS TO BE RELEASED FROM THE DEPARTMENT OF CORRECTIONS.

(3) EACH PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL, WITHIN SEVEN CALENDAR DAYS OF BECOMING A TEMPORARY OR PERMANENT RESIDENT OF ANY CITY, TOWN, COUNTY, OR CITY AND COUNTY IN THE STATE OF COLORADO, REGISTER WITH THE LOCAL LAW ENFORCEMENT AGENCY IN THE PLACE OF SUCH PERSON'S TEMPORARY OR PERMANENT RESIDENCE BY COMPLETING A REGISTRATION FORM PROVIDED TO SUCH PERSON BY THE LOCAL LAW ENFORCEMENT AGENCY. SUCH REGISTRATION FORM SHALL CONTAIN SUCH INFORMATION REGARDING SUCH PERSON AS SHALL BE REQUIRED BY THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO SUBSECTION (5) OF THIS SECTION. PERSONS WHO RESIDE WITHIN THE CORPORATE LIMITS OF ANY CITY, TOWN, OR CITY AND COUNTY SHALL REGISTER AT THE OFFICE OF THE CHIEF OF POLICE OF SUCH CITY, TOWN, OR CITY AND COUNTY. PERSONS WHO RESIDE OUTSIDE OF THE CORPORATE LIMITS OF ANY CITY, TOWN, OR CITY AND COUNTY SHALL REGISTER AT THE OFFICE OF THE COUNTY SHERIFF OF THE COUNTY WHERE SUCH PERSON RESIDES. ANY PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE REQUIRED TO REGISTER EACH TIME SUCH PERSON CHANGES SUCH PERSON'S TEMPORARY OR PERMANENT ADDRESS, REGARDLESS OF WHETHER SUCH PERSON HAS MOVED TO A NEW ADDRESS WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY WITH WHICH SUCH PERSON PREVIOUSLY REGISTERED.

(4) ANY PERSON WHO FAILS TO REGISTER PURSUANT TO SUBSECTIONS (1) AND (2) OF THIS SECTION, OR ANY PERSON WHO SUBMITS A REGISTRATION FORM CONTAINING FALSE INFORMATION, COMMITS THE OFFENSE OF FAILURE TO REGISTER AS A SEX OFFENDER. 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.

(5) EACH LOCAL LAW ENFORCEMENT AGENCY IN THE STATE OF COLORADO SHALL PREPARE REGISTRATION FORMS TO BE UTILIZED TO COMPLY WITH THIS SECTION. SUCH FORMS SHALL BE USED TO REGISTER PERSONS PURSUANT TO THIS SECTION. THE FORMS SHALL PROVIDE THAT THE PERSONS REQUIRED TO REGISTER PURSUANT TO THIS SECTION DISCLOSE SUCH INFORMATION AS REQUIRED BY THE LOCAL LAW ENFORCEMENT AGENCY. THE INFORMATION REQUIRED BY THE LOCAL LAW ENFORCEMENT AGENCY SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE NAME, ADDRESS, AND PLACE OF EMPLOYMENT OF THE PERSON REQUIRED TO REGISTER.

(6) UPON RECEIPT OF ANY REGISTRATION FORM PURSUANT TO THIS SECTION, THE

LOCAL LAW ENFORCEMENT AGENCY SHALL RETAIN A COPY OF SUCH FORM. THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION MAY ESTABLISH A CENTRAL REGISTRY OF PERSONS REQUIRED TO REGISTER PURSUANT TO THIS SECTION AS SOON AS COMPUTERIZED RESOURCES ARE AVAILABLE. THE FORMS COMPLETED BY PERSONS REQUIRED TO REGISTER PURSUANT TO THIS SECTION SHALL BE CONFIDENTIAL AND SHALL NOT BE OPEN TO INSPECTION BY THE PUBLIC OR ANY PERSON OTHER THAN ANY LAW ENFORCEMENT OFFICER.

(7) ANY PERSON REQUIRED TO REGISTER PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY PETITION THE DISTRICT COURT FOR AN ORDER WHICH DISCONTINUES THE REQUIREMENT FOR SUCH REGISTRATION AS FOLLOWS:

(a) IF THE OFFENSE WHICH REQUIRED SUCH PERSON TO REGISTER CONSTITUTED OR WOULD CONSTITUTE A CLASS 1, 2, OR 3 FELONY, AFTER A PERIOD OF TWENTY YEARS FROM THE DATE OF SUCH PERSON'S FINAL RELEASE FROM THE JURISDICTION OF THE COURT FOR SUCH OFFENSE, IF SUCH PERSON HAS NOT SUBSEQUENTLY BEEN CONVICTED OF ANY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR;

(b) IF THE OFFENSE WHICH REQUIRED SUCH PERSON TO REGISTER CONSTITUTED OR WOULD CONSTITUTE A CLASS 4, 5, OR 6 FELONY, AFTER A PERIOD OF TEN YEARS FROM THE DATE OF SUCH PERSON'S FINAL RELEASE FROM THE JURISDICTION OF THE COURT FOR SUCH OFFENSE, IF SUCH PERSON HAS NOT SUBSEQUENTLY BEEN CONVICTED OF ANY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR;

(c) IF THE OFFENSE WHICH REQUIRED SUCH PERSON TO REGISTER CONSTITUTED OR WOULD CONSTITUTE A MISDEMEANOR, AFTER A PERIOD OF FIVE YEARS FROM THE DATE OF SUCH PERSON'S FINAL RELEASE FROM THE JURISDICTION OF THE COURT FOR SUCH OFFENSE, IF SUCH PERSON HAS NOT SUBSEQUENTLY BEEN CONVICTED OF ANY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR.

(8) THE PROVISIONS OF THIS SECTION SHALL APPLY TO ANY PERSON ADJUDICATED AS A JUVENILE BASED ON THE COMMISSION OF ANY ACT DESCRIBED IN SUBSECTION (1) OF THIS SECTION; EXCEPT THAT, WITH RESPECT TO PARAGRAPHS (a) TO (c) OF SUBSECTION (7) OF THIS SECTION, A PERSON MAY PETITION THE COURT FOR AN ORDER TO DISCONTINUE THE DUTY TO REGISTER AS PROVIDED IN THOSE PARAGRAPHS BUT ONLY IF THE PERSON HAS NOT SUBSEQUENTLY BEEN ADJUDICATED AS A JUVENILE OR CONVICTED OF ANY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR. IN ADDITION, THE DUTY TO PROVIDE NOTICE TO AN OFFENDER OF THE DUTY TO REGISTER, AS SET FORTH IN SUBSECTION (2) OF THIS SECTION, SHALL APPLY TO JUVENILE PAROLE AND PROBATION OFFICERS AND APPROPRIATE PERSONNEL OF THE DIVISION OF YOUTH SERVICES IN THE DEPARTMENT OF HUMAN SERVICES.

SECTION 2. 17-22.5-202 (3), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17-22.5-202. Ticket to leave - discharge - clothes, money, transportation.

(3) (b.5) ON AND AFTER JULY 1, 1994, DIRECT APPROPRIATE PERSONNEL WITH THE DEPARTMENT OF CORRECTIONS TO REQUIRE ANY OFFENDER WHO IS RELEASED FROM THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS HAVING COMPLETED SERVING A SENTENCE FOR AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR AS DESCRIBED IN PART 4 OF ARTICLE 3 OF TITLE 18, C.R.S., OR FOR THE OFFENSE

DESCRIBED IN SECTION 18-3-305, C.R.S., WHO IS UNDER THEIR JURISDICTION TO SIGN A NOTICE THAT INFORMS THE OFFENDER OF THE DUTY TO REGISTER WITH LOCAL LAW ENFORCEMENT AGENCIES IN ACCORDANCE WITH SECTION 18-3-412.5, C.R.S. THE SAME PERSONS, AFTER OBTAINING A SIGNED NOTICE FROM AN OFFENDER, SHALL NOTIFY LOCAL LAW ENFORCEMENT AGENCIES WHERE THE OFFENDER PLANS TO RESIDE OF THE OFFENDER'S ADDRESS WITHIN FORTY-EIGHT HOURS AFTER AN OFFENDER HAS BEEN PLACED ON PAROLE OR PROBATION WHEN SUCH AN ADDRESS IS PROVIDED IN THE SIGNED NOTICE. DEPARTMENT OF CORRECTIONS PERSONNEL SHALL PROVIDE SUCH NOTICE NO LATER THAN TWO DAYS BEFORE THE OFFENDER IS TO BE RELEASED FROM THE DEPARTMENT OF CORRECTIONS.

SECTION 3. No appropriation. The general assembly finds that general fund moneys saved as a result of the amendment to section 18-18-405 (2) (a) (I), Colorado Revised Statutes, as set forth in section 16 of HB94-1126, offset the general fund moneys required for the implementation of this act. Therefore, the general assembly determines that this act can be implemented within existing appropriations, and no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to persons placed on parole or probation or released from the department of corrections on or after said date.

SECTION 5. 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 31, 1994