

CHAPTER 286

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 99-1260

BY REPRESENTATIVES Tool, Allen, Clapp, Coleman, Dean, Fairbank, Hagedorn, Hefley, Hoppe, Kaufman, Lee, Mace, May, McKay, Scott, Spence, Spradley, Swenson, Taylor, Tochtrop, Veiga, S. Williams, Witwer, and Zimmerman ;
also SENATORS Anderson, Arnold, Dyer, Epps, Hernandez, Powers, Sullivant, Weddig, and Wham.

AN ACT

CONCERNING STRENGTHENING OF THE CRIMINAL LAWS CONCERNING SEX OFFENDERS.

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

SECTION 1. 19-1-304 (5), Colorado Revised Statutes, is amended to read:

19-1-304. Juvenile delinquency records. (5) **Direct filings - arrest and criminal records open.** Whenever a petition filed in juvenile court alleges that a juvenile between the ages of fourteen to eighteen years has committed an offense that would constitute UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5 (1) (b), C.R.S., OR a crime of violence, as defined in section 16-11-309, C.R.S., if committed by an adult or whenever charges filed in district court allege that a juvenile has committed such an offense, then the arrest and criminal records information, as defined in section 24-72-302 (1), C.R.S., and including a juvenile's physical description, concerning such juvenile shall be made available to the public. The information is available only from the investigative law enforcement agency, the agency responsible for filing a petition, and the court, and shall not include records of investigation as such records are described in section 24-72-305 (5), C.R.S. Basic identification information, as defined in section 24-72-302 (2), C.R.S., along with the details of the alleged delinquent act or offense, shall be provided immediately to the school district in which the juvenile is enrolled. Such information shall be used by the board of education for purposes of section 22-33-105 (5), C.R.S., but information made available to the school district and not otherwise available to the public shall remain confidential.

SECTION 2. 18-3-412.5 (1) (a) (II) and the introductory portion to 18-3-412.5 (1) (b), Colorado Revised Statutes, are amended, and the said 18-3-412.5 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

18-3-412.5. Sex offenders - duty to register - penalties. (1) (a) Effective July 1, 1998, the following persons shall be required to register pursuant to the provisions of subsection (2) of this section and shall be subject to the requirements and other provisions specified in this section:

(II) Any person who was convicted on or after July 1, 1991, in another state OR JURISDICTION of an offense that, if committed in Colorado, would constitute an unlawful sexual offense, as defined in section 18-3-411 (1), or enticement of a child, as described in section 18-3-305; and

(b) On and after July 1, 1994, any person who is convicted in the state of Colorado of an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) and any person who has been convicted on and after July 1, 1994, in any other state OR JURISDICTION of an offense that, if committed in the state of Colorado, would constitute an offense involving unlawful sexual behavior as defined in this subsection (1) 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 or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) shall be required to register in the manner prescribed in subsection (3) of this section. For purposes of this section, "unlawful sexual behavior" is defined as:

(d) IN ADDITION TO THE PERSONS SPECIFIED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (1), ANY PERSON CONVICTED PRIOR TO JULY 1, 1994, OF AN OFFENSE IN ANY OTHER STATE OR JURISDICTION THAT, IF COMMITTED IN THIS STATE, WOULD HAVE CONSTITUTED UNLAWFUL SEXUAL BEHAVIOR AND WHO, AS A RESULT OF THE CONVICTION, IS REQUIRED TO REGISTER IN THE STATE OR JURISDICTION OF CONVICTION, SHALL BE REQUIRED TO REGISTER IN THE MANNER SPECIFIED IN SUBSECTION (3) OF THIS SECTION SO LONG AS SUCH PERSON IS A TEMPORARY OR PERMANENT RESIDENT OF COLORADO. SUCH PERSON MAY PETITION THE COURT FOR AN ORDER THAT DISCONTINUES THE REQUIREMENT FOR REGISTRATION IN THIS STATE AT THE TIMES SPECIFIED IN SUBSECTION (7) OF THIS SECTION FOR OFFENSE CLASSIFICATIONS THAT ARE COMPARABLE TO THE CLASSIFICATION OF THE OFFENSE FOR WHICH THE SEX OFFENDER WAS CONVICTED IN THE OTHER STATE OR JURISDICTION.

SECTION 3. Part 1 of article 11 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-11-104. Genetic testing. (1) IN THE CASE OF ANY OFFENDER WHO IS CONVICTED OF AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR OR FOR WHICH THE UNDERLYING FACTUAL BASIS INVOLVES UNLAWFUL SEXUAL BEHAVIOR, IF THE COURT SENTENCES THE OFFENDER DIRECTLY TO INCARCERATION IN A COUNTY JAIL OR TO A COMMUNITY CORRECTIONS FACILITY PURSUANT TO ARTICLE 27 OF TITLE 17, C.R.S., THE COURT SHALL ALSO ORDER THAT THE OFFENDER SUBMIT TO AND PAY FOR A CHEMICAL TESTING OF THE OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF. THE COURT SHALL DIRECT THE SHERIFF OF THE JURISDICTION IN WHICH THE JAIL OR COMMUNITY CORRECTIONS FACILITY TO WHICH THE OFFENDER IS SENTENCED IS LOCATED TO COLLECT THE BLOOD SAMPLE FOR TESTING PURSUANT TO

THIS SECTION. THE RESULTS OF THE TESTING SHALL BE FILED AND MAINTAINED BY THE COLORADO BUREAU OF INVESTIGATION. THE RESULTS OF SUCH TEST SHALL BE FURNISHED TO ANY LAW ENFORCEMENT AGENCY UPON REQUEST.

(2) THE SHERIFF MAY USE REASONABLE FORCE TO OBTAIN BLOOD SAMPLES IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION.

(3) ANY MONEYS RECEIVED FROM OFFENDERS PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE DEPOSITED IN THE SEX OFFENDER IDENTIFICATION FUND CREATED IN SECTION 24-33.5-415.5, C.R.S.

(4) THE COLORADO BUREAU OF INVESTIGATION SHALL CONDUCT THE CHEMICAL TESTING OF THE BLOOD OBTAINED PURSUANT TO THIS SECTION.

(5) AS USED IN THIS SECTION, "UNLAWFUL SEXUAL BEHAVIOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 18-3-412.5 (1) (b), C.R.S.

SECTION 4. 24-33.5-415.5, Colorado Revised Statutes, is amended to read:

24-33.5-415.5. Sex offender identification - fund. There is hereby created in the state treasury the sex offender identification fund, referred to in this section as the "fund". Moneys in the fund shall consist of payments for genetic testing received from offenders pursuant to ~~section 16-11-204.3, C.R.S.~~ SECTIONS 16-11-104 AND 16-11-204.3, C.R.S. The fund shall also include any additional moneys that may be appropriated thereto by the general assembly to fund the costs incurred in genetic testing of sex offenders. Subject to annual appropriations by the general assembly, the executive director and the state court administrator are authorized to expend moneys in the fund to pay for genetic testing of offenders pursuant to ~~section 16-11-204.3, C.R.S.~~ SECTIONS 16-11-104 AND 16-11-204.3, C.R.S. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

SECTION 5. 16-11-204.3 (1), Colorado Revised Statutes, is amended to read:

16-11-204.3. Genetic testing as a condition of probation. (1) A condition of probation OR SUPERVISION for any offender convicted of OR WHO RECEIVES A DEFERRED JUDGMENT AND SENTENCE FOR an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior shall be that the offender submit to and pay for a chemical testing of the offender's blood to determine the genetic markers thereof. Collection of the blood sample shall occur within ninety days after being placed on probation OR UNDER SUPERVISION, and the results thereof shall be filed and maintained by the Colorado bureau of investigation. The results of such tests shall be furnished to any law enforcement agency upon request.

SECTION 6. The introductory portion to 18-3-412.5 (1) (b) and 18-3-412.5 (1) (b) (XXI), (1) (b) (XXII), (1) (b) (XXIII), and (1) (c), Colorado Revised Statutes, are amended to read:

18-3-412.5. Sex offenders - duty to register - penalties. (1) (b) On and after July 1, 1994, any person who is convicted in the state of Colorado of an offense involving

unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) and any person who has been convicted on and after July 1, 1994, in any other state of an offense that, if committed in the state of Colorado, would constitute an offense involving unlawful sexual behavior as defined in this subsection (1) 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 or for which the factual basis involved an offense involving unlawful sexual behavior as defined in this subsection (1) shall be required to register in the manner prescribed in subsection (3) of this section. For purposes of this section, "unlawful sexual behavior" ~~is defined as~~ MEANS ANY OF THE FOLLOWING OFFENSES OR CRIMINAL ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT ANY OF THE FOLLOWING OFFENSES:

~~(XXI) Criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in subparagraphs (I) to (XX) of this paragraph (b);~~

~~(XXII) A deferred judgment and sentence or a deferred adjudication for any of the offenses specified in subparagraphs (I) to (XXI) of this paragraph (b); and~~

~~(XXIII) Any offense that has a factual basis of one of the offenses specified in subparagraphs (I) to (XXI) of this paragraph (b);~~

(c) For purposes of this section, "convicted" includes having pleaded guilty or nolo contendere AND HAVING RECEIVED A DEFERRED JUDGMENT AND SENTENCE OR A DEFERRED ADJUDICATION.

SECTION 7. 16-13-804 (2), Colorado Revised Statutes, is amended to read:

16-13-804. Indeterminate sentence. (2) (a) The district court having jurisdiction, based on consideration of the evaluation conducted pursuant to section 16-11.7-104 and the factors specified in section 16-11-203, may sentence a sex offender to probation for an indeterminate period of at least ten years for a class 4 felony or twenty years for a class 2 or 3 felony and a maximum of the sex offender's natural life; except that, if the sex offender committed a sex offense that constitutes a crime of violence as defined in section 16-11-309, or committed a sex offense that makes him or her eligible for sentencing as a habitual sex offender against children pursuant to section 18-3-412, C.R.S., the court shall sentence the sex offender to the department of corrections as provided in subsection (1) of this section. For any sex offender sentenced to probation pursuant to this subsection (2), the court shall order that the sex offender, as a condition of probation, participate in an intensive supervision probation program established pursuant to section 16-13-807, until further order of the court.

(b) THE COURT, AS A CONDITION OF PROBATION, MAY SENTENCE A SEX OFFENDER TO A RESIDENTIAL COMMUNITY CORRECTIONS PROGRAM PURSUANT TO ARTICLE 27 OF TITLE 17, C.R.S., FOR A MINIMUM PERIOD SPECIFIED BY THE COURT. FOLLOWING COMPLETION OF THE MINIMUM PERIOD, THE SEX OFFENDER MAY BE RELEASED TO INTENSIVE SUPERVISION PROBATION AS PROVIDED IN SECTION 16-13-808 (1.5).

SECTION 8. 16-13-808, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-13-808. Probation - conditions - release. (1.5) IF THE COURT AS A CONDITION OF PROBATION SENTENCES A SEX OFFENDER TO A RESIDENTIAL COMMUNITY CORRECTIONS PROGRAM, FOLLOWING COMPLETION OF THE MINIMUM PERIOD OF SENTENCE SPECIFIED BY THE COURT, THE COMMUNITY CORRECTIONS PROGRAM SHALL NOTIFY THE JUDICIAL DEPARTMENT WHEN IT DETERMINES THAT THE SEX OFFENDER HAS SUCCESSFULLY PROGRESSED IN TREATMENT AND WOULD NOT POSE AN UNDUE THREAT TO THE COMMUNITY IF ALLOWED TO LIVE IN THE COMMUNITY WHILE CONTINUING ON INTENSIVE SUPERVISION PROBATION. THE COMMUNITY CORRECTIONS PROGRAM SHALL BASE ITS DETERMINATION ON THE CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-809. THE JUDICIAL DEPARTMENT SHALL FILE THE RECOMMENDATIONS OF THE COMMUNITY CORRECTIONS PROGRAM WITH THE COURT. UPON ORDER OF THE COURT, THE SEX OFFENDER SHALL BE RELEASED FROM THE COMMUNITY CORRECTIONS PROGRAM, AND THE COURT SHALL ORDER THE SEX OFFENDER, AS A CONDITION OF PROBATION, TO PARTICIPATE IN THE INTENSIVE SUPERVISION PROGRAM CREATED IN SECTION 16-13-807. THE SEX OFFENDER SHALL PARTICIPATE IN SUCH PROGRAM UNTIL FURTHER ORDER OF THE COURT.

SECTION 9. 18-3-414.5, Colorado Revised Statutes, is amended to read:

18-3-414.5. Sexually violent predator. (1) As used in this section, unless the context otherwise requires:

(+) (a) "Sexually violent predator" means an offender:

(+) (I) Who is eighteen years of age or older as of the date the offense is committed or who is less than eighteen years of age as of the date the offense is committed but is tried as an adult pursuant to section 19-2-517 or 19-2-518, C.R.S.;

(+) (II) Who has been convicted on or after ~~January 1, 1999~~ JULY 1, 1999, of one of the following offenses COMMITTED ON OR AFTER JULY 1, 1997:

(+) (A) Sexual assault in the first degree, in violation of section 18-3-402;

(+) (B) Sexual assault in the second degree, in violation of section 18-3-403;

(+) (C) Sexual assault in the third degree, in violation of section 18-3-404 (1.5) or (2);

(+) (D) Sexual assault on a child, in violation of section 18-3-405; or

(+) (E) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3;

(+) (III) Whose victim was a stranger to the offender or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and

(+) (IV) Who, based upon the results of a risk assessment screening instrument developed by the division of criminal justice in consultation with and approved by the sex offender management board established pursuant to section 16-11.7-103 (1),

C.R.S., is likely to subsequently commit one or more of the offenses specified in ~~paragraph (b) of this subsection (1)~~ SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) under the circumstances described in ~~paragraph (c) of this subsection (1)~~ SUBPARAGRAPH (III) OF THIS PARAGRAPH (a).

~~(2)~~ (b) "Convicted" includes having pleaded guilty or nolo contendere.

(2) AT THE TIME A PRESENTENCE INVESTIGATION REPORT IS ORDERED FOR A DEFENDANT WHO IS CONVICTED OF ONE OF THE OFFENSES SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, THE COURT SHALL ALSO ORDER THAT THE SEXUALLY VIOLENT PREDATOR RISK ASSESSMENT BE CONDUCTED. BASED ON THE RESULTS OF SUCH ASSESSMENT, THE COURT SHALL MAKE SPECIFIC FINDINGS OF FACT AND ENTER AN ORDER CONCERNING WHETHER THE DEFENDANT IS A SEXUALLY VIOLENT PREDATOR. IF THE DEFENDANT IS FOUND TO BE A SEXUALLY VIOLENT PREDATOR, THE DEFENDANT SHALL BE REQUIRED TO REGISTER PURSUANT TO SECTION 18-3-412.5 (3.5).

(3) WHEN CONSIDERING RELEASE ON PAROLE FOR AN OFFENDER WHO WAS CONVICTED OF ONE OF THE OFFENSES SPECIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, THE PAROLE BOARD SHALL MAKE SPECIFIC FINDINGS CONCERNING WHETHER THE OFFENDER IS A SEXUALLY VIOLENT PREDATOR, BASED ON THE RESULTS OF A SEXUALLY VIOLENT PREDATOR ASSESSMENT CONDUCTED BY THE DEPARTMENT OF CORRECTIONS. IF THE PAROLE BOARD FINDS THAT THE OFFENDER IS A SEXUALLY VIOLENT PREDATOR, THE OFFENDER SHALL BE REQUIRED TO REGISTER PURSUANT TO SECTION 18-3-412.5 (3.5).

SECTION 10. 16-11.7-103 (4) (c.5), Colorado Revised Statutes, is amended to read:

16-11.7-103. Sex offender management board - creation - duties - repeal.

(4) (c.5) On or before January 1, 1999, the board shall consult on and approve the risk assessment screening instrument developed by the division of criminal justice to assist the sentencing court in determining the likelihood that an offender would commit one or more of the offenses specified in ~~section 18-3-414.5 (1) (b)~~ SECTION 18-3-414.5 (1) (a) (II), C.R.S., under the circumstances described in ~~section 18-3-414.5 (1) (c)~~ SECTION 18-3-414.5 (1) (a) (III), C.R.S. No state general fund moneys shall be used to develop the risk assessment screening instrument. In carrying out this duty, the board shall consider sex offender risk assessment research and shall consider as one element the risk posed by a sex offender who suffers from a mental abnormality, psychosis, or personality disorder that makes the person more likely to engage in sexually violent predatory offenses. For purposes of this subsection (4) only, "mental abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a significant risk to the health and safety of other persons. If a defendant is found to be a sexually violent predator, the defendant shall be required to register pursuant to section 18-3-412.5 (3.5), C.R.S.

SECTION 11. 16-13-804 (4) (a) (II), Colorado Revised Statutes, is amended to read:

16-13-804. Indeterminate sentence. (4) (a) The court may sentence any person pursuant to the provisions of this section if:

(II) An assessment of the person pursuant to section 16-11.7-104 determines that the person is likely to commit one or more of the offenses specified in ~~section 18-3-414.5 (1) (a), C.R.S.~~ SECTION 18-3-414.5 (1) (a) (II), C.R.S., under the circumstances described in ~~section 18-3-414.5 (1) (b)~~ SECTION 18-3-414.5 (1) (a) (III), C.R.S.

SECTION 12. 24-33.5-503 (1) (o), Colorado Revised Statutes, is amended to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(o) To develop, in consultation with the sex offender management board and the judicial branch by January 1, 1999, the risk assessment screening instrument ~~which~~ THAT will be provided to the sentencing courts to determine the likelihood that a sex offender would commit one or more of the offenses specified in ~~section 18-3-414.5 (1) (b)~~ SECTION 18-3-414.5 (1) (a) (II), C.R.S., under the circumstances described in ~~section 18-3-414.5 (1) (c)~~ SECTION 18-3-414.5 (1) (a) (III), C.R.S.;

SECTION 13. 18-3-412.5 (2) (a), Colorado Revised Statutes, is amended to read:

18-3-412.5. Sex offenders - duty to register - penalties. (2) (a) (I) Probation and parole officers, appropriate county jail personnel, and appropriate personnel with the department of corrections and the department of human services shall require any offender described in subsection (1) of this section 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 this section.

(II) Department of corrections personnel and department of human services personnel shall require any offender described in subsection (1) of this section to specify, at least five days prior to release into the community, the address at which the offender plans to reside upon release. PRIOR TO RELEASE OF SAID OFFENDER, DEPARTMENT OF CORRECTIONS PERSONNEL OR DEPARTMENT OF HUMAN SERVICES PERSONNEL, WHICHEVER IS APPROPRIATE, IN COOPERATION WITH LOCAL LAW ENFORCEMENT OFFICERS, SHALL VERIFY THAT THE ADDRESS IS A RESIDENCE, THAT THE OCCUPANTS OR OWNERS KNOW OF THE OFFENDER'S HISTORY OF UNLAWFUL SEXUAL BEHAVIOR, AND THAT THE OCCUPANTS OR OWNERS HAVE AGREED TO ALLOW THE OFFENDER TO RESIDE AT THE ADDRESS. IF THE OFFENDER IS BEING RELEASED ON PAROLE, DEPARTMENT PERSONNEL SHALL ALSO VERIFY THAT THE ADDRESS COMPLIES WITH ANY CONDITIONS IMPOSED BY THE PAROLE BOARD.

(III) IF, ON VERIFYING THE ADDRESS PROVIDED BY AN OFFENDER, DEPARTMENT PERSONNEL DETERMINE THAT THE ADDRESS IS NOT A RESIDENCE, THAT THE OWNERS OR OCCUPANTS ARE NOT AWARE OF THE OFFENDER'S HISTORY OF UNLAWFUL SEXUAL BEHAVIOR, THAT THE OWNERS OR OCCUPANTS HAVE NOT AGREED TO ALLOW THE OFFENDER TO RESIDE AT THE ADDRESS, OR THAT THE ADDRESS VIOLATES THE OFFENDER'S CONDITIONS OF PAROLE, THE OFFENDER SHALL BE DEEMED TO HAVE PROVIDED FALSE INFORMATION TO DEPARTMENT PERSONNEL CONCERNING THE ADDRESS AT WHICH THE OFFENDER PLANS TO RESIDE UPON RELEASE.

SECTION 14. 18-3-412.5 (4) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

18-3-412.5. Sex offenders - duty to register - penalties. (4) (a) Any person who is required to register pursuant to subsection (1) of this section and who commits any of the acts specified in this paragraph (a) commits the offense of failure to register as a sex offender:

(III.5) KNOWINGLY PROVIDING FALSE INFORMATION TO DEPARTMENT OF CORRECTIONS PERSONNEL OR DEPARTMENT OF HUMAN SERVICES PERSONNEL CONCERNING THE ADDRESS WHERE THE PERSON PLANS TO RESIDE UPON RELEASE FROM EITHER THE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF HUMAN SERVICES. PROVIDING FALSE INFORMATION SHALL INCLUDE, BUT IS NOT LIMITED TO, PROVIDING FALSE INFORMATION AS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

SECTION 15. 16-11-304, Colorado Revised Statutes, is amended to read:

16-11-304. Determinate sentence of imprisonment imposed by court. When a person has been convicted of a felony and a sentence of imprisonment imposed, the court imposing the sentence shall fix a definite term of imprisonment, which shall be not longer than the terms authorized in section 18-1-105, C.R.S.; EXCEPT THAT, FOR PERSONS CONVICTED ON OR AFTER NOVEMBER 1, 1998, OF A SEX OFFENSE, AS DEFINED IN SECTION 16-13-803 (5), THE COURT SHALL IMPOSE AN INDETERMINATE SENTENCE AS PROVIDED IN PART 8 OF ARTICLE 13 OF THIS TITLE.

SECTION 16. 16-11.7-106, Colorado Revised Statutes, is amended to read:

16-11.7-106. Sex offender treatment - contracts with providers. The department of corrections, the judicial department, the division of criminal justice of the department of public safety, or the department of human services shall not employ or contract with and shall not allow a sex offender to employ or contract with any individual or entity to provide sex offender EVALUATION OR treatment services pursuant to this article unless the sex offender EVALUATION OR treatment services to be provided by such individual or entity conforms with the standards developed pursuant to section 16-11.7-103 (4) (b).

SECTION 17. Article 13 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 9
COMMUNITY NOTIFICATION CONCERNING
SEXUALLY VIOLENT PREDATORS

16-13-901. Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS THAT A SMALL PERCENTAGE OF PERSONS WHO ARE CONVICTED OF OFFENSES INVOLVING UNLAWFUL SEXUAL BEHAVIOR AND WHO ARE IDENTIFIED AS SEXUALLY VIOLENT PREDATORS MAY POSE A HIGH ENOUGH LEVEL OF RISK TO THE COMMUNITY THAT PERSONS IN THE COMMUNITY SHOULD RECEIVE NOTIFICATION CONCERNING THE IDENTITY OF THESE SEXUALLY VIOLENT PREDATORS. THE GENERAL ASSEMBLY ALSO RECOGNIZES THE HIGH POTENTIAL FOR VIGILANTISM THAT OFTEN RESULTS FROM

COMMUNITY NOTIFICATION AND THE DANGEROUS POTENTIAL THAT THE FEAR OF SUCH VIGILANTISM WILL DRIVE A SEX OFFENDER TO DISAPPEAR AND ATTEMPT TO LIVE WITHOUT SUPERVISION. THE GENERAL ASSEMBLY THEREFORE FINDS THAT SEX OFFENDER NOTIFICATION SHOULD ONLY OCCUR IN CASES INVOLVING A HIGH DEGREE OF RISK TO THE COMMUNITY AND SHOULD ONLY OCCUR UNDER CAREFULLY CONTROLLED CIRCUMSTANCES THAT INCLUDE PROVIDING ADDITIONAL INFORMATION AND EDUCATION TO THE COMMUNITY CONCERNING SUPERVISION AND TREATMENT OF SEX OFFENDERS.

16-13-902. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF CORRECTIONS CREATED IN SECTION 24-1-128.5, C.R.S.

(2) "MANAGEMENT BOARD" MEANS THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION 16-11.7-103.

(3) "PAROLE BOARD" MEANS THE STATE BOARD OF PAROLE CREATED IN SECTION 17-2-201, C.R.S.

(4) "SEX OFFENDER" MEANS A PERSON SENTENCED PURSUANT TO PART 8 OF THIS ARTICLE.

(5) "SEXUALLY VIOLENT PREDATOR" MEANS A SEX OFFENDER WHO IS IDENTIFIED AS A SEXUALLY VIOLENT PREDATOR PURSUANT TO SECTION 18-3-414.5, C.R.S.

(6) "TECHNICAL ASSISTANCE TEAM" MEANS THE GROUP OF PERSONS ESTABLISHED BY THE DIVISION OF CRIMINAL JUSTICE PURSUANT TO SECTION 16-13-906 TO ASSIST LOCAL LAW ENFORCEMENT IN CARRYING OUT COMMUNITY NOTIFICATION AND TO PROVIDE GENERAL COMMUNITY EDUCATION CONCERNING SEX OFFENDERS.

16-13-903. Sexually violent predator subject to community notification - determination - implementation. (1) ON AND AFTER DECEMBER 31, 1999, A SEXUALLY VIOLENT PREDATOR MAY BE SUBJECT TO COMMUNITY NOTIFICATION AS PROVIDED IN THIS PART 9, PURSUANT TO CRITERIA ESTABLISHED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-904.

(2) THE DEPARTMENT OF CORRECTIONS OR A SEXUALLY VIOLENT PREDATOR'S SUPERVISING PROBATION OR PAROLE OFFICER SHALL APPLY THE CRITERIA DEVELOPED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-904 TO DETERMINE WHETHER GROUNDS EXIST FOR MAKING THE SEXUALLY VIOLENT PREDATOR SUBJECT TO COMMUNITY NOTIFICATION. IF THE DEPARTMENT OF CORRECTIONS OR THE SUPERVISING OFFICER DETERMINES THAT SUCH GROUNDS EXIST, THE DEPARTMENT OR THE SUPERVISING OFFICER SHALL PETITION THE PAROLE BOARD OR THE COURT, WHICHEVER HAS JURISDICTION OVER THE SEXUALLY VIOLENT PREDATOR, FOR A DETERMINATION THAT THE SEXUALLY VIOLENT PREDATOR IS SUBJECT TO COMMUNITY NOTIFICATION.

(3) IF THE PAROLE BOARD OR THE COURT DETERMINES THAT THE SEXUALLY VIOLENT PREDATOR IS SUBJECT TO COMMUNITY NOTIFICATION, THE DEPARTMENT OR

THE SEXUALLY VIOLENT PREDATOR'S SUPERVISING OFFICER SHALL NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY FOR THE JURISDICTION IN WHICH THE SEXUALLY VIOLENT PREDATOR RESIDES OR PLANS TO RESIDE UPON RELEASE FROM INCARCERATION. THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE COLORADO BUREAU OF INVESTIGATION, AND THE SEXUALLY VIOLENT PREDATOR'S STATUS AS BEING SUBJECT TO COMMUNITY NOTIFICATION SHALL BE ENTERED IN THE CENTRAL REGISTRY OF PERSONS REQUIRED TO REGISTER AS SEX OFFENDERS CREATED PURSUANT TO SECTION 18-3-412.5 (6), C.R.S.

(4) THE DEPARTMENT, THE PAROLE BOARD, AND ANY PERSON EMPLOYED BY THE DEPARTMENT OR THE PAROLE BOARD SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION COMMITTED IN IMPLEMENTING THE PROVISIONS OF THIS PART 9 SO LONG AS THE ACT OR OMISSION IS NOT GROSSLY NEGLIGENT OR COMMITTED WILLFULLY AND WANTONLY.

16-13-904. Sex offender management board - duties. (1) ON OR BEFORE NOVEMBER 1, 1999, THE MANAGEMENT BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE PAROLE BOARD, SHALL ESTABLISH:

(a) CRITERIA TO BE APPLIED BY THE DEPARTMENT OR A SUPERVISING PROBATION OR PAROLE OFFICER IN DETERMINING WHETHER TO PETITION THE PAROLE BOARD OR THE COURT FOR A DETERMINATION THAT A SEXUALLY VIOLENT PREDATOR IS SUBJECT TO COMMUNITY NOTIFICATION;

(b) CRITERIA TO BE APPLIED BY A LOCAL LAW ENFORCEMENT AGENCY IN DETERMINING WHETHER TO CARRY OUT A COMMUNITY NOTIFICATION;

(c) PROTOCOLS AND PROCEDURES FOR CARRYING OUT COMMUNITY NOTIFICATION.

(2) THE MANAGEMENT BOARD SHALL COLLABORATE WITH THE TECHNICAL ASSISTANCE TEAM IN ESTABLISHING THE PROTOCOLS AND PROCEDURES FOR CARRYING OUT COMMUNITY NOTIFICATION. SUCH PROTOCOLS AND PROCEDURES SHALL BE DESIGNED TO ENSURE THAT NOTICE IS PROVIDED IN A MANNER THAT IS AS SPECIFIC AS POSSIBLE TO THE POPULATION WITHIN THE COMMUNITY THAT IS AT RISK. SUCH PROTOCOLS AND PROCEDURES SHALL ALSO INCLUDE PROVISION TO THE COMMUNITY OF GENERAL INFORMATION AND EDUCATION CONCERNING SEX OFFENDERS, INCLUDING TREATMENT AND SUPERVISION OF SEX OFFENDERS, AND PROCEDURES TO ATTEMPT TO MINIMIZE THE RISK OF VIGILANTISM.

(3) THE MANAGEMENT BOARD SHALL HOLD AT LEAST THREE PUBLIC MEETINGS PRIOR TO ADOPTING THE CRITERIA, PROTOCOLS, AND PROCEDURES REQUIRED IN SUBSECTION (1) OF THIS SECTION, AT WHICH MEETINGS, THE MANAGEMENT BOARD SHALL PROVIDE NOTICE TO AND RECEIVE INPUT FROM THE PUBLIC REGARDING THE PROPOSED CRITERIA, PROTOCOLS, AND PROCEDURES.

16-13-905. Local law enforcement - duties - immunity. (1) THE LOCAL LAW ENFORCEMENT AGENCY FOR THE JURISDICTION IN WHICH A SEXUALLY VIOLENT PREDATOR WHO IS SUBJECT TO COMMUNITY NOTIFICATION RESIDES SHALL BE RESPONSIBLE FOR CARRYING OUT ANY COMMUNITY NOTIFICATION REGARDING SAID SEXUALLY VIOLENT PREDATOR. SUCH COMMUNITY NOTIFICATION SHALL ONLY OCCUR

UNDER THE CIRCUMSTANCES AND IN THE MANNER SPECIFIED BY THE MANAGEMENT BOARD PURSUANT TO SECTION 16-13-904. THE LOCAL LAW ENFORCEMENT AGENCY MAY APPLY TO THE DIVISION OF CRIMINAL JUSTICE FOR ASSISTANCE FROM THE TECHNICAL ASSISTANCE TEAM IN CARRYING OUT ANY COMMUNITY NOTIFICATION.

(2) ANY LOCAL LAW ENFORCEMENT AGENCY, AND ANY EMPLOYEE OF THE LAW ENFORCEMENT AGENCY, SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION COMMITTED IN CARRYING OUT COMMUNITY NOTIFICATION SO LONG AS THE ACT OR OMISSION IS NOT GROSSLY NEGLIGENT OR COMMITTED WILLFULLY AND WANTONLY.

16-13-906. Division of criminal justice - technical assistance team. (1) THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY SHALL ESTABLISH A TECHNICAL ASSISTANCE TEAM TO PROVIDE ASSISTANCE TO LOCAL LAW ENFORCEMENT AGENCIES IN CARRYING OUT COMMUNITY NOTIFICATION. THE TECHNICAL ASSISTANCE TEAM SHALL INCLUDE PERSONS WITH EXPERTISE IN SEX OFFENDER MANAGEMENT, SEX OFFENDER SUPERVISION, AND LAW ENFORCEMENT.

(2) THE TECHNICAL ASSISTANCE TEAM SHALL ALSO BE AVAILABLE UPON REQUEST TO ASSIST COMMUNITIES IN PROVIDING GENERAL INFORMATION CONCERNING SEX OFFENDERS, INCLUDING TREATMENT, MANAGEMENT, AND SUPERVISION OF SEX OFFENDERS WITHIN SOCIETY. SUCH EDUCATION MAY BE PROVIDED IN SITUATIONS THAT ARE NOT RELATED TO THE PROVISION OF NOTICE CONCERNING A SPECIFIC SEXUALLY VIOLENT PREDATOR.

SECTION 18. 18-3-412 (1), Colorado Revised Statutes, is amended to read:

18-3-412. Habitual sex offenders against children - indictment or information - verdict of the jury. (1) For the purpose of this section, "unlawful sexual offense" means sexual assault in the first degree, as defined in section 18-3-402, when the victim at the time of the commission of the act is a child less than fifteen years of age; sexual assault in the second degree, as defined in section 18-3-403 (1) (a), (1) (b), (1) (c), (1) (d), (1) (g), or (1) (h), when the victim at the time of the commission of the act is a child less than fifteen years of age, or as defined in section 18-3-403 (1) (e), when the victim is less than fifteen years of age and the actor is at least four years older than the victim; ~~or as defined in section 18-3-403 (1) (f), when the victim is less than eighteen years of age and the actor is the victim's guardian or is responsible for the general supervision of the victim's welfare;~~ sexual assault in the third degree, as defined in section 18-3-404 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), or (1) (g), when the victim at the time of the commission of the act is a child less than fifteen years of age; ~~or as defined in section 18-3-404 (1) (e), when the victim is less than eighteen years of age and the actor is the victim's guardian or is otherwise responsible for the general supervision of the victim's welfare;~~ sexual assault on a child, as defined in section 18-3-405; SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, AS DEFINED IN SECTION 18-3-405.3; aggravated incest, as defined in section 18-6-302; trafficking in children, as defined in section 18-6-402; sexual exploitation of a child, as defined in section 18-6-403; procurement of a child for sexual exploitation, as defined in section 18-6-404; soliciting for child prostitution, as defined in section 18-7-402; pandering of a child, as defined in section 18-7-403; procurement of a child, as defined in section 18-7-403.5; keeping a place of child prostitution, as defined in section 18-7-404; pimping of a child, as defined in section 18-7-405; inducement of child prostitution, as defined in section 18-7-405.5; patronizing a prostituted child, as

defined in section 18-7-406; or criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (1).

SECTION 19. 18-3-412.5 (3) (d), (6.5) (b), (6.5) (c), (7) (a) (II), and (7) (a) (III), Colorado Revised Statutes, are amended to read:

18-3-412.5. Sex offenders - duty to register - penalties. (3) (d) Upon moving to a new jurisdiction WITHIN THIS STATE OR TO ANOTHER STATE, any person who is required to register pursuant to subsection (1) of this section shall notify the local law enforcement agency of the jurisdiction from which the person moved by completing a written form of change of residency, available from the local law enforcement agency. At a minimum, the change of residency form shall indicate the person's previous residential address and the person's new residential address. The person shall file the change of residency form within seven days after moving to a new jurisdiction. IF THE PERSON MOVES TO ANOTHER STATE, THE LOCAL LAW ENFORCEMENT AGENCY OF THE JURISDICTION IN THIS STATE FROM WHICH THE PERSON MOVED SHALL PROMPTLY NOTIFY THE AGENCY RESPONSIBLE FOR REGISTRATION IN THE NEW STATE.

(6.5) (b) When necessary for public protection, a local law enforcement agency ~~may~~ SHALL release information regarding any person registered with the local law enforcement agency pursuant to this section to any person residing within the local law enforcement agency's jurisdiction. Any person requesting information pursuant to this paragraph (b) shall show proper identification or other proof of residence.

(c) A local law enforcement agency ~~may~~ SHALL release information regarding any person registered with the local law enforcement agency pursuant to this section to any person living outside the local law enforcement agency's jurisdiction when necessary for public protection and upon request and demonstration of a need to know. In determining whether the person has demonstrated a need to know, the local law enforcement agency shall, at a minimum, consider the nature and extent of the person's presence or the presence of the person's immediate family in the local law enforcement agency's jurisdiction. For purposes of this subsection (6.5), "immediate family" includes the person's spouse and the person's parent, grandparent, sibling, or child.

(7) (a) Any person required to register pursuant to subsection (1) or (3.5) of this section may petition the district court for an order that discontinues the requirement for such registration as follows:

(II) Except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (a), if the offense that required such person to register constituted or would constitute a class 4, 5, or 6 felony OR THE CLASS 1 MISDEMEANOR OF SEXUAL ASSAULT IN THE THIRD DEGREE AS DESCRIBED IN SECTION 18-3-404, 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;

(III) Except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (a), if the offense that required such person to register constituted or would constitute a misdemeanor OTHER THAN THE CLASS 1 MISDEMEANOR OF SEXUAL ASSAULT IN THE THIRD DEGREE AS DESCRIBED IN SECTION 18-3-404, 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;

SECTION 20. 18-3-412.5 (2) (c), Colorado Revised Statutes, is amended to read:

18-3-412.5. Sex offenders - duty to register - penalties. (2) (c) The persons specified in paragraphs (a) and (b) of this subsection (2), after obtaining a signed notice from an offender, shall notify local law enforcement agencies of the jurisdiction in which the offender plans to reside of the offender's address within forty-eight hours after an offender has been placed on parole or probation or otherwise released into the community 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. IN PROVIDING NOTICE, THE PERSONS SPECIFIED IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (2) MAY ALSO PROVIDE ADDITIONAL INFORMATION CONCERNING THE OFFENDER, INCLUDING BUT NOT LIMITED TO ANY INFORMATION OBTAINED IN CONDUCTING THE ASSESSMENT TO DETERMINE WHETHER THE OFFENDER MAY BE SUBJECT TO COMMUNITY NOTIFICATION PURSUANT TO SECTION 16-13-903, C.R.S.

SECTION 21. 18-3-412.5 (6) (b), Colorado Revised Statutes, is amended, and the said 18-3-412.5 (6) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

18-3-412.5. Sex offenders - duty to register - penalties. (6) (b) 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 a law enforcement agency, except as provided in PARAGRAPH (b.5) OF THIS SUBSECTION (6) AND subsections (6.5) and (6.7) of this section.

(b.5) PURSUANT TO A REQUEST FOR A CRIMINAL HISTORY CHECK UNDER THE PROVISIONS OF PART 3 OF ARTICLE 72 OF TITLE 24, C.R.S., THE COLORADO BUREAU OF INVESTIGATION MAY INFORM THE REQUESTING PARTY AS TO WHETHER THE PERSON WHO IS THE SUBJECT OF THE CRIMINAL HISTORY CHECK IS ON THE CENTRAL REGISTRY OF PERSONS REQUIRED TO REGISTER PURSUANT TO THIS SECTION.

SECTION 22. No appropriation. The general assembly has determined that sections 1 and 2, sections 4 through 16, and sections 18 through 21 of this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of said sections.

SECTION 23. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys remaining in the statewide instant criminal background check cash fund created in section 12-26.5-107, Colorado Revised Statutes, as it existed prior to November 30, 1998, not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 1999, the sum of two hundred forty-one thousand five hundred fifty-one dollars (\$241,551) and 2.5 FTE, or so much thereof as may be necessary, for the implementation of sections 3 and 17 of this act.

SECTION 24. Future appropriations - legislative intent. (1) In addition to any other appropriation set forth in this act, it appears that sections 3 and 17 of this act will

require appropriations from the general fund for subsequent fiscal years, and the amount required to be appropriated, to the department of public safety, for the fiscal year beginning July 1, 2000, is estimated to be one hundred seventy-two thousand eight hundred eighty-two dollars (\$172,882) and 1.5 FTE.

(2) It is the intent of the general assembly that the general fund appropriation for the implementation of this act shall be derived from savings generated from implementation of the provisions of HB99-1168, as enacted during the First Regular Session of the Sixty-second General Assembly.

SECTION 25. Effective date - applicability. This act shall take effect July 1, 1999, and sections 3, 4, 14, and 17 of this act shall apply to offenses committed on or after said date; except that sections 3 and 17 of this act shall only take effect if section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and House Bill 99-1168 is enacted at the First Regular Session of the Sixty-second General Assembly and becomes law.

SECTION 26. 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: June 2, 1999

Editor's note: House Bill 99-1168 was signed by the Governor on May 24, 1999.