

## CHAPTER 199

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 01-1229**

BY REPRESENTATIVE(S) Veiga, Boyd, Garcia, Groff, Jahn, Mace, Marshall, Romanoff, Schultheis, Scott, Spradley, Tapia, Tochtrop, Vigil, Williams S.;  
also SENATOR(S) Anderson, Arnold, Dyer (Arapahoe), Epps, Hillman, and Nichol.

**AN ACT**

CONCERNING SEX OFFENDER SUPERVISION, AND MAKING AN APPROPRIATION THEREFOR.

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

**SECTION 1.** 18-3-412.5 (3) (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.** (3) (a) (I.5) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), ANY PERSON WHO IS CONVICTED AS AN ADULT OF SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, OR SEXUAL ASSAULT IN THE FIRST DEGREE, IN VIOLATION OF SECTION 18-3-402 AS IT EXISTED PRIOR TO JULY 1, 2000, OR SEXUAL ASSAULT IN THE SECOND DEGREE, IN VIOLATION OF SECTION 18-3-403 AS IT EXISTED PRIOR TO JULY 1, 2000, OR SEXUAL ASSAULT ON A CHILD IN VIOLATION OF SECTION 18-3-405, OR SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, IN VIOLATION OF SECTION 18-3-405.3, OR SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, IN VIOLATION OF SECTION 18-3-405.5, OR INCEST, IN VIOLATION OF SECTION 18-6-301, OR AGGRAVATED INCEST, IN VIOLATION OF SECTION 18-6-302, SHALL, FOR THE REMAINDER OF HIS OR HER NATURAL LIFE, REGISTER QUARTERLY WITH THE LOCAL LAW ENFORCEMENT AGENCY OF THE JURISDICTION IN WHICH HE OR SHE RESIDES.

**SECTION 2.** 18-3-412.5 (7) (c), Colorado Revised Statutes, is amended to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (7) (c) Any person who is sentenced as a sexually violent predator pursuant to section 18-3-414.5, ANY PERSON WHO IS CONVICTED AS AN ADULT OF SEXUAL ASSAULT, IN VIOLATION OF SECTION 18-3-402, OR SEXUAL ASSAULT IN THE FIRST DEGREE, IN VIOLATION OF

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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.*

SECTION 18-3-402 AS IT EXISTED PRIOR TO JULY 1, 2000, OR SEXUAL ASSAULT IN THE SECOND DEGREE, IN VIOLATION OF SECTION 18-3-403 AS IT EXISTED PRIOR TO JULY 1, 2000, OR SEXUAL ASSAULT ON A CHILD, IN VIOLATION OF SECTION 18-3-405, OR SEXUAL ASSAULT ON A CHILD BY ONE IN A POSITION OF TRUST, IN VIOLATION OF SECTION 18-3-405.3, OR SEXUAL ASSAULT ON A CLIENT BY A PSYCHOTHERAPIST, IN VIOLATION OF SECTION 18-3-405.5, OR INCEST, IN VIOLATION OF 18-6-301, OR AGGRAVATED INCEST, IN VIOLATION OF 18-6-302, or any adult who has more than one conviction or adjudication for unlawful sexual behavior in this state or any other jurisdiction shall not be eligible for relief pursuant to this subsection (7), but shall be subject for the remainder of his or her natural life to the registration requirements specified in this section or to the comparable requirements of any other jurisdiction in which he or she may reside.

**SECTION 3.** 16-13-807 (1) (a), Colorado Revised Statutes, is amended, and the said 16-13-807 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**16-13-807. Probation - intensive supervision program.** (1) (a) The judicial department shall establish an intensive supervision probation program for sex offenders sentenced to probation pursuant to this part 8. In addition, the court ~~may~~ SHALL require a person, as a condition of probation, to participate in the intensive supervision probation program established pursuant to this section if the person is convicted of ONE OF THE FOLLOWING OFFENSES AND SENTENCED TO PROBATION:

(I) Indecent exposure, as described in section 18-7-302 (4), C.R.S.;

(II) Criminal attempt, conspiracy, or solicitation to commit any of the offenses specified in section 16-13-803 (5) (a), which attempt, conspiracy, or solicitation would constitute a class 5 felony; ~~or~~

(III) Any of the offenses specified in section 16-13-804 (4) (b);

(IV) ANY FELONY OFFENSE THAT INVOLVES UNLAWFUL SEXUAL BEHAVIOR OR ANY FELONY OFFENSE WITH AN UNDERLYING FACTUAL BASIS, AS DETERMINED BY THE COURT, RESULTING IN A CONVICTION OR PLEA OF GUILTY OR NOLO CONTENDRE ON OR AFTER JULY 1, 2001;

(V) SEXUAL ASSAULT IN THE THIRD DEGREE, IN VIOLATION OF SECTION 18-3-404 (2), C.R.S., AS IT EXISTED PRIOR TO JULY 1, 2000.

(4) FOR THE PURPOSES OF THIS SECTION, "CONVICTED" MEANS HAVING ENTERED A PLEA OF GUILTY, INCLUDING A PLEA OF GUILTY ENTERED PURSUANT TO A DEFERRED SENTENCE UNDER SECTION 16-7-403, OR A PLEA OF NO CONTEST, ACCEPTED BY THE COURT, OR HAVING RECEIVED A VERDICT OF GUILTY BY A JUDGE OR JURY.

**SECTION 4.** 18-3-414.5 (2), Colorado Revised Statutes, is amended to read:

**18-3-414.5. Sexually violent predator.** (2) At the time a presentence investigation report is ~~ordered~~ CONDUCTED 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~~ PROBATION DEPARTMENT SHALL, IN

COORDINATION WITH THE EVALUATOR COMPLETING THE MENTAL HEALTH SEX OFFENSE SPECIFIC EVALUATION, COMPLETE 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).

**SECTION 5.** 16-11-204 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**16-11-204. Conditions of probation.** (2) (d) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF THIS SUBSECTION (2), IF THE COURT ORDERS COUNSELING OR TREATMENT AS A CONDITION OF PROBATION FOR AN OFFENDER CONVICTED OF AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5, C.R.S., THE COURT SHALL ORDER SUCH TREATMENT OR COUNSELING BE AT A FACILITY OR WITH A PERSON LISTED IN PARAGRAPH (c) OF THIS SUBSECTION (2), AND THE COURT MAY NOT MAKE A SPECIFIC FINDING THAT TREATMENT IN ANOTHER FACILITY OR WITH ANOTHER PERSON IS WARRANTED.

**SECTION 6.** 16-7-402, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**16-7-402. Counseling or treatment for alcohol or drug abuse.** (3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, IN ANY CASE IN WHICH TREATMENT OR COUNSELING FOR ALCOHOL OR DRUG ABUSE IS AUTHORIZED AND ORDERED BY THE COURT IN CONNECTION WITH A DEFERRED PROSECUTION OR PROBATION FOR AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5, C.R.S., THE COURT SHALL ORDER THAT THE COUNSELING OR TREATMENT BE OBTAINED FROM A TREATMENT FACILITY OR PERSON APPROVED BY THE DIVISION OF ALCOHOL AND DRUG ABUSE, ESTABLISHED IN PART 2 OF ARTICLE 1 OF TITLE 25, C.R.S.

**SECTION 7.** 17-2-201, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**17-2-201. State board of parole.** (5.8) NOTWITHSTANDING THE PROVISION OF SUBSECTION (5.7) OF THIS SECTION, IF, AS A CONDITION OF PAROLE, AN OFFENDER WHO WAS CONVICTED OF OR PLEAD GUILTY TO AN OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 18-3-412.5, C.R.S., IS REQUIRED TO UNDERGO COUNSELING OR TREATMENT, SUCH TREATMENT OR COUNSELING SHALL BE AT A FACILITY OR WITH A PERSON LISTED IN SUBSECTION (5.7) OF THIS SECTION AND THE PAROLE BOARD MAY NOT DETERMINE TREATMENT AT ANOTHER FACILITY OR WITH ANOTHER PERSON IS WARRANTED.

**SECTION 8.** 18-3-412.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**18-3-412.5. Sex offenders - duty to register - penalties.** (3.9) (a) EACH PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBPARAGRAPH (1.5) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION SHALL WITHIN FIVE BUSINESS

DAYS AFTER BECOMING A TEMPORARY OR PERMANENT RESIDENT OF ANY CITY, TOWN, COUNTY, OR CITY AND COUNTY IN THE STATE OF COLORADO, AND QUARTERLY THEREAFTER SO LONG AS THE PERSON RESIDES IN THE CITY, TOWN, COUNTY, OR CITY AND COUNTY, REGISTER DURING BUSINESS HOURS 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. THE REGISTRATION FORM SHALL CONTAIN SUCH INFORMATION REGARDING THE PERSON AS SHALL BE REQUIRED BY THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO SUBSECTION (5) OF THIS SECTION.

(b) (I) EACH PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBPARAGRAPH (I.5) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION WHO RESIDES 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.

(II) EACH PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBPARAGRAPH (I.5) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION WHO RESIDES 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 THE PERSON RESIDES.

(c) EACH PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO SUBPARAGRAPH (I.5) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION SHALL BE REQUIRED TO REGISTER EACH TIME THE PERSON:

(I) CHANGES HIS OR HER TEMPORARY OR PERMANENT ADDRESS, REGARDLESS OF WHETHER THE PERSON HAS MOVED TO A NEW ADDRESS WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY WITH WHICH THE PERSON PREVIOUSLY REGISTERED;

(II) LEGALLY CHANGES HIS OR HER NAME.

**SECTION 9. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of moneys in the offender services fund not otherwise appropriated, to the judicial department, division of probation and related services, for the sex offender intensive supervision program, for the fiscal year beginning July 1, 2001, the sum of three hundred fifty-eight thousand four hundred ninety-seven dollars (\$358,497), or so much thereof as may be necessary for the implementation of this act.

**SECTION 10. Effective date - applicability.** This act shall take effect upon passage, and section 3 of this act shall apply to offenses committed on or after said date.

**SECTION 11. 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 30, 2001