

CHAPTER 297

CRIMINAL LAW AND PROCEDURE

SENATE BILL 04-154

BY SENATOR(S) Anderson, Jones, and May R.;
also REPRESENTATIVE(S) Stengel, Boyd, Coleman, Fairbank, Hoppe, Jahn, Marshall, Merrifield, Paccione, Romanoff, and
Williams S.

AN ACT**CONCERNING REGISTRATION OF PERSONS WHO ENGAGE IN UNLAWFUL SEXUAL BEHAVIOR.**

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

SECTION 1. 16-22-102 (8), Colorado Revised Statutes, is amended, and the said 16-22-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

16-22-102. Definitions. As used in this article, unless the context otherwise requires:

(3.5) "EMPLOYED AT AN INSTITUTION OF POSTSECONDARY EDUCATION" MEANS A PERSON:

(a) IS EMPLOYED BY OR IS AN INDEPENDENT CONTRACTOR WITH AN INSTITUTION OF POSTSECONDARY EDUCATION OR IS EMPLOYED BY OR IS AN INDEPENDENT CONTRACTOR WITH AN ENTITY THAT CONTRACTS WITH AN INSTITUTION OF POSTSECONDARY EDUCATION; AND

(b) SPENDS ANY PERIOD OF TIME IN FURTHERANCE OF THE EMPLOYMENT OR INDEPENDENT CONTRACTOR RELATIONSHIP ON THE CAMPUS OF THE POSTSECONDARY INSTITUTION OR AT A SITE THAT IS OWNED OR LEASED BY THE POSTSECONDARY INSTITUTION.

(4.5) "LOCAL LAW ENFORCEMENT AGENCY" MEANS THE LAW ENFORCEMENT AGENCY, INCLUDING BUT NOT LIMITED TO A CAMPUS POLICE AGENCY, THAT HAS JURISDICTION OVER A CERTAIN GEOGRAPHIC AREA.

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

(5.5) "REGISTRANT" MEANS A PERSON WHO IS REQUIRED TO REGISTER IN ACCORDANCE WITH THIS ARTICLE.

(5.7) "RESIDENCE" MEANS A PLACE OR DWELLING THAT IS USED, INTENDED TO BE USED, OR USUALLY USED, BY A PERSON FOR HABITATION. A PERSON MAY ESTABLISH MULTIPLE RESIDENCES BY RESIDING IN MORE THAN ONE PLACE OR DWELLING.

(8) "Temporary resident" means ~~any~~ A person who is A RESIDENT OF ANOTHER STATE BUT IN COLORADO TEMPORARILY BECAUSE THE PERSON IS:

(a) Employed in this state on a full-time or part-time basis, with or without compensation, for more than fourteen consecutive business days or for an aggregate period of more than thirty days in any calendar year; or

(b) Enrolled in any type of educational institution in this state on a full-time or part-time basis; OR

(c) PRESENT IN COLORADO FOR MORE THAN FOURTEEN CONSECUTIVE BUSINESS DAYS OR FOR AN AGGREGATE PERIOD OF MORE THAN THIRTY DAYS IN A CALENDAR YEAR FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO VACATION, TRAVEL, OR RETIREMENT.

SECTION 2. 16-22-103 (1) (b), (1) (c), (3), and (5) (a), Colorado Revised Statutes, are amended to read:

16-22-103. Sex offender registration - required - applicability - exception.

(1) Effective July 1, 1998, the following persons shall be required to register pursuant to the provisions of section 16-22-108 and shall be subject to the requirements and other provisions specified in this article:

(b) Any person who was convicted on or after July 1, 1991, in another state or jurisdiction, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, of an offense that, if committed in Colorado, would constitute an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or enticement of a child, as described in section 18-3-305, C.R.S.; and

(c) Any person who was released on or after July 1, 1991, from the custody of the department of corrections OF THIS STATE OR ANY OTHER STATE, having served a sentence for an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S., or enticement of a child, as described in section 18-3-305, C.R.S.

(3) In addition to the persons specified in subsections (1) and (2) of this section, any person convicted of an offense in any other state or jurisdiction, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, for which the person, as a result of the conviction, is required to register in the state or jurisdiction of conviction, or for which such person would be required to register if convicted in Colorado, shall be required to register in the manner specified in section 16-22-108, 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 section 16-22-113 for offense classifications that are comparable to the classification of the offense for which the

person was convicted in the other state or jurisdiction.

(5) (a) Notwithstanding any provision of this article to the contrary, if, pursuant to a motion filed by a person described in this subsection (5) or on its own motion, a court determines that the registration requirement specified in this section would be unfairly punitive and that exempting the person from the registration requirement would not pose a significant risk to the community, the court, upon consideration of the totality of the circumstances, may exempt the person from the registration requirements imposed pursuant to this section if:

(I) The person was younger than eighteen years of age at the time of the commission of the offense; AND

(II) The person has not been previously charged with unlawful sexual behavior; AND

(III) The offense, as charged in the first petition filed with the court, is a first offense of either misdemeanor unlawful sexual contact, as described in section 18-3-404, C.R.S., or indecent exposure, as described in section 18-7-302, C.R.S.; AND

(IV) The person has received a sex offender evaluation that conforms with the standards developed pursuant to section 16-11.7-103 (4) (f), from an evaluator who meets the standards established by the sex offender management board, and the evaluator recommends exempting the person from the registration requirements based upon the best interests of that person and the community; and

(V) The court makes written findings of fact specifying the grounds for granting such exemption.

SECTION 3. 16-22-104, Colorado Revised Statutes, is amended to read:

16-22-104. Initial registration - effective date - repeal. (1) (a) (I) ~~Beginning January 1, 2004~~ BEGINNING JANUARY 1, 2005, for any person required to register pursuant to section 16-22-103, the court, within THE LATER OF twenty-four hours OR THE NEXT BUSINESS DAY after sentencing the person, shall electronically file with the CBI the initial registration of the person, providing the information required by the CBI.

(II) BEGINNING ON THE EFFECTIVE DATE OF THIS SUBPARAGRAPH (II), THE COURT SHALL SPECIFY ON THE JUDGMENT OF CONVICTION THE PERSON'S DUTY TO REGISTER AS REQUIRED IN SECTION 16-22-108, INCLUDING BUT NOT LIMITED TO THE DUTY TO CONFIRM REGISTRATION IF THE PERSON IS SENTENCED ON OR AFTER JANUARY 1, 2005, AND THE PERSON'S DUTY TO REREGISTER.

(b) Any person who is sentenced prior to ~~January 1, 2003~~ JANUARY 1, 2005, and who is required to register pursuant to section 16-22-103 shall initially register in the manner provided and within the times specified in section 16-22-108 (1) (a) for registration.

(c) The state court administrator is hereby authorized to receive and expend any

public or private gifts, grants, or donations that may be available to offset the costs incurred in implementing the provisions of this subsection (1).

(2) (a) In the course of preparing the presentence investigation report pursuant to section 16-11-102, or otherwise, the probation department shall complete the standardized registration form provided by the CBI, including, at a minimum, the information electronically transmitted by the court and information pertaining to the registrant's modus operandi. The probation department shall transmit the completed standardized form to the CBI following sentencing of the person.

(b) THE CBI SHALL NOTIFY THE PROBATION DEPARTMENT UPON IMPLEMENTATION OF THE ELECTRONIC FILING PROTOCOLS. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (2), THE PROBATION DEPARTMENT SHALL NOT BE REQUIRED TO COMPLY WITH THE REQUIREMENTS OF SAID PARAGRAPH (a) FOLLOWING RECEIPT OF NOTIFICATION FROM THE CBI PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH (b).

(c) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1, 2005.

SECTION 4. 16-22-105 (3), Colorado Revised Statutes, is amended to read:

16-22-105. Notice - requirements - residence - presumption. (3) For purposes of this article, any person who is required to register pursuant to section 16-22-103 shall register in all jurisdictions in which he or she establishes a residence. A person establishes a residence through an intent to make any PLACE OR dwelling his or her ~~place~~ of residence. The prosecution may prove intent to establish residence by reference to hotel or motel receipts or a lease of real property, OWNERSHIP OF REAL PROPERTY, proof the person accepted responsibility for utility bills, proof the person established a mailing address, or any other action demonstrating such intent. Notwithstanding the existence of any other evidence of intent, occupying or inhabiting any dwelling for more than ~~fifteen~~ FOURTEEN days in any thirty-day period shall constitute the establishment of residence.

SECTION 5. 16-22-106 (1), (2), and (3) (a) (II), Colorado Revised Statutes, are amended to read:

16-22-106. Duties - probation department - community corrections administrator - court personnel - jail personnel - notice. (1) (a) If a person who is required to register pursuant to section 16-22-103 is sentenced to probation, the probation department, as soon as possible following sentencing, shall provide notice, as described in section 16-22-105, to the person of the duty to register in accordance with the provisions of this article with the local law enforcement agency of each jurisdiction in which the person resides. The person shall be required to sign the notice as confirmation of receipt and to provide the person's date of birth and the address or addresses at which the person resides. BEGINNING ON THE EFFECTIVE DATE OF SECTION 16-22-104 (1) (a) (II), the court shall specify ~~as conditions of the person's probation~~ ON THE JUDGMENT OF CONVICTION the duty to register as required in section 16-22-108, including but not limited to the duty to confirm registration if sentenced on or after ~~January 1, 2003~~ JANUARY 1, 2005, and to reregister.

(b) The probation department shall electronically notify the CBI ~~of any~~

~~modifications to the person's conditions of probation and shall notify the CBI of the date on which THE PERSON'S probation is terminated, AND THE PROBATION DEPARTMENT SHALL NOTIFY THE CBI IF THE PERSON ABSCONDS OR DIES PRIOR TO THE PROBATION TERMINATION DATE. The CBI shall electronically notify the local law enforcement agency of each jurisdiction in which the person resides of any such modifications and the date of termination~~ THE OCCURRENCE OF ANY OF THE EVENTS SPECIFIED IN THIS PARAGRAPH (b).

(2) (a) If a person who is required to register pursuant to section 16-22-103 receives a direct sentence to community corrections, the administrator for the community corrections program, or his or her designee, as soon as possible following sentencing, shall provide notice, as described in section 16-22-105, to the person of the duty to register in accordance with the provisions of this article with the local law enforcement agency of each jurisdiction in which the person resides. The person shall be required to sign the notice as confirmation of receipt and to provide the person's date of birth and the address or addresses at which the person resides. The court shall specify ~~as conditions of the person's direct sentence to community corrections~~ ON THE JUDGMENT OF CONVICTION the duty to register as required in section 16-22-108, including but not limited to the duty to confirm registration, if sentenced on or after ~~January 1, 2003~~ JANUARY 1, 2005, and to reregister.

(b) The administrator of the community corrections program, or his or her designee, shall electronically notify the CBI of ~~any modifications to the conditions of the person's direct sentence to community corrections and shall notify the CBI of the date on which the sentence to community corrections is terminated, AND THE ADMINISTRATOR OF THE COMMUNITY CORRECTIONS PROGRAM SHALL NOTIFY THE CBI IF THE PERSON ESCAPES OR DIES PRIOR TO THE SENTENCE TERMINATION DATE. The CBI shall electronically notify the local law enforcement agency of each jurisdiction in which the person resides of any such modifications and the date of termination~~ THE OCCURRENCE OF ANY OF THE EVENTS SPECIFIED IN THIS PARAGRAPH (b).

(3) (a) (II) The provisions of this paragraph (a) shall apply to persons sentenced on or after ~~January 1, 2004~~ JANUARY 1, 2005.

SECTION 6. 16-22-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-22-106. Duties - probation department - community corrections administrator - court personnel - jail personnel - notice. (3.5) WITH REGARD TO A PERSON WHO IS REQUIRED TO REGISTER WITHIN A STATE, MILITARY, OR FEDERAL JURISDICTION OTHER THAN COLORADO, THE CHIEF LOCAL LAW ENFORCEMENT OFFICER, OR HIS OR HER DESIGNEE, OF THE COLORADO JURISDICTION IN WHICH THE PERSON RESIDES SHALL PROVIDE NOTICE, AS DESCRIBED IN SECTION 16-22-105, TO THE PERSON AS SOON AS POSSIBLE AFTER DISCOVERING THE PERSON'S PRESENCE IN THE JURISDICTION, OF THE DUTY TO REGISTER IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE WITH THE LOCAL LAW ENFORCEMENT AGENCY OF EACH COLORADO JURISDICTION IN WHICH THE PERSON RESIDES. THE PERSON SHALL BE REQUIRED TO SIGN THE NOTICE AS CONFIRMATION OF RECEIPT AND TO PROVIDE THE PERSON'S DATE OF BIRTH AND THE ADDRESS OR ADDRESSES AT WHICH THE PERSON RESIDES.

SECTION 7. 16-22-107 (1), (2), and (3), Colorado Revised Statutes, are

amended, and the said 16-22-107 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-22-107. Duties - department of corrections - department of human services - confirmation of registration - notice - address verification. (1) (a) If a person who is required to register pursuant to section 16-22-103 is sentenced to the department of corrections, the department of corrections shall transmit to the CBI confirmation of the person's registration on a standardized form provided by the CBI, including the person's date of birth ~~a current photograph of the person~~, and the person's fingerprints. THE DEPARTMENT OF CORRECTIONS SHALL ALSO TRANSMIT A PHOTOGRAPH OF THE PERSON IF REQUESTED BY THE CBI.

(b) The provisions of this subsection (1) shall apply to persons sentenced on or after ~~January 1, 2004~~ JANUARY 1, 2005.

(2) At least ~~five~~ TEN BUSINESS days prior to the release or discharge of any person who has been sentenced to the department of corrections and is required to register pursuant to section 16-22-103, the department of corrections shall provide notice, as described in section 16-22-105, to the person of the duty to register in accordance with the provisions of this article with the local law enforcement agency of each jurisdiction in which the person resides. The person shall be required to sign the notice as confirmation of receipt and to provide the person's date of birth and the address at which the person intends to reside upon release or discharge.

(3) Within five days, but not fewer than two days, prior to the release or discharge of any person who has been sentenced to the department of corrections and is required to register pursuant to section 16-22-103, the department shall notify the CBI and the local law enforcement agency of the jurisdiction in which the person intends to reside of the date of the person's release or discharge. Such notice shall include the address at which the person intends to reside upon release or discharge, provided by the person pursuant to subsection (2) of this section, and the person's date of birth ~~fingerprints~~, and THE PERSON'S current photograph IF REQUESTED BY THE CBI. In addition, such notice may include additional information concerning the person, including but not limited to any information obtained in conducting the assessment to determine whether the person may be subject to community notification pursuant to section 16-13-903.

(4.5) WITH REGARD TO A PERSON WHO HAS BEEN SENTENCED TO THE DEPARTMENT OF CORRECTIONS, IS RELEASED ON PAROLE, AND IS REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103, THE DEPARTMENT SHALL ELECTRONICALLY NOTIFY THE CBI OF THE DATE ON WHICH THE PERSON'S PAROLE IS TERMINATED, AND THE DEPARTMENT SHALL NOTIFY THE CBI IF THE PERSON ABSCONDS OR DIES PRIOR TO THE PAROLE TERMINATION DATE. THE CBI SHALL ELECTRONICALLY NOTIFY THE LOCAL LAW ENFORCEMENT AGENCY OF EACH JURISDICTION IN WHICH THE PERSON RESIDES OF THE OCCURRENCE OF ANY OF THE EVENTS SPECIFIED IN THIS SUBSECTION (4.5).

SECTION 8. 16-22-108 (1) (a), (1) (b), (1) (d) (I), (1) (d) (II) (A), (1) (e), (3) (d), (5), and (6), Colorado Revised Statutes, are amended, and the said 16-22-108 (1) (d) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

16-22-108. Registration - procedure - frequency - place - change of address.

(1) (a) Each person who is required to register pursuant to section 16-22-103 shall register with the local law enforcement agency in each jurisdiction in which the person resides. Each such person shall initially register or, if sentenced on or after ~~January 1, 2003~~ JANUARY 1, 2005, confirm his or her initial registration within five business days after release from incarceration for commission of the offense requiring registration or within five business days after receiving notice of the duty to register, if the person was not incarcerated. Such person shall register with the local law enforcement agency during business hours by completing a standardized registration form provided to such person by the local law enforcement agency AND PAYING THE REGISTRATION FEE IMPOSED BY THE LOCAL LAW ENFORCEMENT AGENCY AS PROVIDED IN SUBSECTION (7) OF THIS SECTION. The CBI shall provide standardized registration forms to the local law enforcement agencies pursuant to section 16-22-109.

(b) Except as otherwise provided in paragraph (d) of this subsection (1), each person who is required to register pursuant to section 16-22-103 shall reregister ON THE PERSON'S FIRST BIRTHDAY FOLLOWING INITIAL REGISTRATION AND annually on the person's birthday THEREAFTER. If a person's birthday falls on a Saturday, Sunday, or holiday, the person shall reregister on the first business day following his or her birthday. Such person shall reregister pursuant to this paragraph (b) with the local law enforcement agency of each jurisdiction in which the person resides on his or her birthday, in the manner provided in paragraph (a) of this subsection (1).

(d) (I) Any person who is a sexually violent predator and any person who is convicted as an adult of any of the offenses specified in subparagraph (II) of this paragraph (d) has a duty to register for the remainder of his or her natural life; EXCEPT THAT, IF THE PERSON RECEIVES A DEFERRED JUDGMENT AND SENTENCE FOR ONE OF THE OFFENSES SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (d), THE PERSON MAY PETITION THE COURT FOR DISCONTINUATION OF THE DUTY TO REGISTER AS PROVIDED IN SECTION 16-22-113 (1) (d). In addition to registering as required in paragraph (a) of this subsection (1), such person shall reregister ninety days after the date he or she was released from incarceration for commission of the offense requiring registration, or ninety days after the date he or she received notice of the duty to register, if the person was not incarcerated, and every ninety days thereafter until such person's birthday. Such person shall reregister on his or her birthday and shall reregister every ninety days thereafter. If a person's birthday or other reregistration day falls on a Saturday, Sunday, or holiday, the person shall reregister on the first business day following his or her birthday or other reregistration day. Such person shall reregister pursuant to this paragraph (d) with the local law enforcement agency of each jurisdiction in which the person resides on the reregistration date, in the manner provided in paragraph (a) of this subsection (1).

(I.5) (A) A PERSON CONVICTED OF AN OFFENSE IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, WHO, AS A RESULT OF THE CONVICTION, IS REQUIRED TO REGISTER QUARTERLY AS A SEX OFFENDER IN THE STATE OR JURISDICTION OF CONVICTION IS REQUIRED TO REGISTER AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) SO LONG AS THE PERSON IS A TEMPORARY OR PERMANENT RESIDENT OF COLORADO.

(B) A PERSON CONVICTED OF AN OFFENSE IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, WHICH

CONVICTION WOULD REQUIRE THE PERSON TO REGISTER AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) IF THE CONVICTION OCCURRED IN COLORADO, IS REQUIRED TO REGISTER AS PROVIDED IN SAID SUBPARAGRAPH (I) SO LONG AS THE PERSON IS A TEMPORARY OR PERMANENT RESIDENT OF COLORADO.

(II) The provisions of this paragraph (d) shall apply to persons convicted of one or more of the following offenses:

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

(e) Notwithstanding the time period for registration specified in paragraph (a) of this subsection (1), any person who is discharged from the department of corrections OF THIS STATE OR ANOTHER STATE without supervision shall register in the manner provided in paragraph (a) of this subsection (1) no later than the next business day following discharge.

(3) Any person who is required to register pursuant to section 16-22-103 shall be required to register each time such person:

(d) Becomes employed or changes employment or employment location, if employed by AT an institution of postsecondary education;

(5) During the initial registration process for a temporary resident, the local law enforcement agency with which the temporary resident is registering shall ~~inform the temporary resident that he or she is required to register in each state in which he or she is a temporary resident~~ PROVIDE THE TEMPORARY RESIDENT WITH THE REGISTRATION INFORMATION SPECIFIED IN SECTION 16-22-105. A TEMPORARY RESIDENT WHO IS REQUIRED TO REGISTER PURSUANT TO THE PROVISIONS OF SECTION 16-22-103 SHALL, WITHIN FIVE BUSINESS DAYS AFTER ARRIVAL IN COLORADO, REGISTER WITH THE LOCAL LAW ENFORCEMENT AGENCY OF EACH JURISDICTION IN WHICH THE TEMPORARY RESIDENT RESIDES.

(6) Any person required to register pursuant to section 16-22-103, at the time the person registers WITH ANY LOCAL LAW ENFORCEMENT AGENCY IN THIS STATE, AND THEREAFTER WHEN ANNUALLY REREGISTERING ON THE PERSON'S BIRTHDAY OR THE FIRST BUSINESS DAY FOLLOWING THE BIRTHDAY AS REQUIRED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, shall sit for a current photograph or image of himself or herself and shall supply a set of fingerprints to verify the person's identity. The person shall bear the cost of the photograph or image and fingerprints.

SECTION 9. 16-22-108, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-22-108. Registration - procedure - frequency - place - change of address - fee. (7) A LOCAL LAW ENFORCEMENT AGENCY MAY ESTABLISH A REGISTRATION FEE TO BE PAID BY PERSONS REGISTERING AND REREGISTERING WITH THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO THE PROVISIONS OF THIS SECTION. THE AMOUNT OF THE FEE SHALL REFLECT THE ACTUAL DIRECT COSTS INCURRED BY THE

LOCAL LAW ENFORCEMENT AGENCY IN IMPLEMENTING THE PROVISIONS OF THIS ARTICLE.

SECTION 10. 16-22-109 (1) (a), (1) (a.5), and (3), Colorado Revised Statutes, are amended, and the said 16-22-109 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-22-109. Registration forms - local law enforcement agencies - duties.

(1) The director of the CBI shall prescribe standardized forms to be used to comply with this article, and the CBI shall provide copies of such standardized forms to the courts, probation departments, community corrections programs, the department of corrections, the department of human services, and local law enforcement agencies. Such standardized forms may be provided in electronic form. Such standardized forms shall be used to register persons pursuant to this article and to enable persons to cancel registration, as necessary. The standardized forms shall provide that the persons required to register pursuant to section 16-22-103 disclose such information as is required on the standardized forms. The information required on the standardized forms shall include, but need not be limited to:

(a) The name, date of birth, address, and place of employment of the person required to register, and, if the place of employment is AT an institution of postsecondary education, all addresses and locations of the ~~employing~~ institution of postsecondary education at which the person may be physically located;

(a.5) If the person is volunteering at an institution of postsecondary education, all addresses and locations of the ~~volunteering~~ institution of postsecondary education at which the person may be physically located;

(3) Upon receipt of any completed registration form pursuant to this article, the local law enforcement agency shall retain a copy of such form and shall report the registration to the CBI in the manner and on the standardized form prescribed by the director of the CBI. The local law enforcement agency shall, within three business days after the date on which a person is required to register, report to the CBI such registration AND, IF IT IS THE REGISTRANT'S FIRST REGISTRATION WITH THE LOCAL LAW ENFORCEMENT AGENCY, TRANSMIT THE REGISTRANT'S FINGERPRINTS TO THE CBI. THE LOCAL LAW ENFORCEMENT AGENCY SHALL TRANSFER ADDITIONAL SETS OF FINGERPRINTS ONLY WHEN REQUESTING CBI TO CONDUCT A COMPARISON. THE LOCAL LAW ENFORCEMENT AGENCY SHALL TRANSMIT A PHOTOGRAPH OF A REGISTRANT ONLY UPON REQUEST OF THE CBI.

(3.5) THE LOCAL LAW ENFORCEMENT AGENCY WITH WHICH A PERSON REGISTERS PURSUANT TO THIS ARTICLE SHALL, AS SOON AS POSSIBLE FOLLOWING THE REGISTRANT'S FIRST REGISTRATION WITH THE LOCAL LAW ENFORCEMENT AGENCY AND AT LEAST ANNUALLY THEREAFTER, VERIFY THE RESIDENTIAL ADDRESS REPORTED BY THE REGISTRANT ON THE STANDARDIZED FORM; EXCEPT THAT, IF THE REGISTRANT IS A SEXUALLY VIOLENT PREDATOR, THE LOCAL LAW ENFORCEMENT AGENCY SHALL VERIFY THE REGISTRANT'S RESIDENTIAL ADDRESS QUARTERLY.

SECTION 11. 16-22-109 (5), Colorado Revised Statutes, is RECREATED AND REENACTED, WITH AMENDMENTS, to read:

16-22-109. Registration forms - local law enforcement agencies - duties.

(5) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A REQUIREMENT FOR ELECTRONIC NOTIFICATION OR ELECTRONIC TRANSMISSION OF INFORMATION SPECIFIED IN THIS ARTICLE SHALL BE EFFECTIVE ON AND AFTER JANUARY 1, 2005. PRIOR TO SAID DATE, OR IF AN AGENCY DOES NOT HAVE ACCESS TO ELECTRONIC MEANS OF TRANSMITTING INFORMATION, THE NOTIFICATION AND INFORMATION REQUIREMENTS SHALL BE MET BY PROVIDING THE REQUIRED NOTIFICATION OR INFORMATION BY A STANDARD MEANS OF TRANSMITTAL.

SECTION 12. 16-22-110 (2) (c), (3) (a), (6) (d), (6) (f), (7), and (9), Colorado Revised Statutes, are amended to read:

16-22-110. Colorado sex offender registry - creation - maintenance - release of information. (2) The sex offender registry shall provide, at a minimum, the following information to all criminal justice agencies with regard to registered persons:

(c) Descriptions of the offenses OF UNLAWFUL SEXUAL BEHAVIOR of which a person has been convicted;

(3) (a) In addition to the sex offender registry, the CBI shall maintain one or more interactive data base systems to provide, at a minimum, cross validation of a registrant's known names and known addresses with information maintained by the department of revenue concerning driver's licenses and identification cards issued under article 2 of title 42, C.R.S. ~~and with information maintained by the department of revenue with regard to payment of Colorado state taxes.~~ Discrepancies between the known names or known addresses listed in the sex offender registry and information maintained by the department of revenue shall be reported through the Colorado crime information center to each local law enforcement agency that has jurisdiction over the location of the person's last-known residences.

(6) (d) ~~When necessary for public protection and~~ Upon a demonstration of a need to know, a person may request from the CBI a list of those persons on the sex offender registry who reside in geographic areas other than those specified in paragraph (c) of this subsection (6). The executive director of the department of public safety shall promulgate rules to define "need to know" for purposes of this subsection (6) and specify how such need may be demonstrated. In determining whether a person has demonstrated a need to know, the CBI, at a minimum, shall consider the nature and extent of the person's presence or the presence of the person's immediate family in the geographic areas in which the persons on the sex offender registry reside.

(f) Information released pursuant to this subsection (6), at a minimum, shall include the name, address or addresses, and aliases of the registrant; THE REGISTRANT'S DATE OF BIRTH; a photograph ~~a history of the convictions~~ OF THE REGISTRANT, IF REQUESTED AND READILY AVAILABLE; AND THE CONVICTION resulting in the registrant being required to register pursuant to this article. ~~and any other convictions the registrant may have.~~ Information concerning victims shall not be released pursuant to this section.

(7) The CBI may assess reasonable fees for the search, retrieval, and copying of

information requested pursuant to subsection (6) of this section. The amount of such fees shall reflect the actual costs, including but not limited to personnel and equipment, incurred in operating and maintaining the sex offender registry. Any such fees received shall be credited to the sex offender registry fund, which fund is hereby created in the state treasury. The moneys in the sex offender registry fund shall be subject to annual appropriation by the general assembly for the costs, including but not limited to personnel and equipment, incurred in operating and maintaining the sex offender registry. The sex offender registry fund shall consist of the moneys credited thereto pursuant to this subsection (7) AND SUBSECTION (9) OF THIS SECTION and any additional moneys that may be appropriated thereto by the general assembly. All interest derived from the deposit and investment of moneys in the sex offender registry fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the sex offender registry fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(9) The CBI shall seek and is hereby authorized to receive and expend any public or private gifts, grants, or donations that may be available to implement the provisions of this article pertaining to establishment and maintenance of the sex offender registry, including but not limited to provisions pertaining to the initial registration of persons pursuant to section 16-22-104 and the transmittal of information between and among local law enforcement agencies, community corrections programs, the judicial department, the department of corrections, the department of human services, and the CBI. ANY MONEYS RECEIVED PURSUANT TO THIS SUBSECTION (9), EXCEPT FEDERAL MONEYS THAT ARE CUSTODIAL FUNDS, SHALL BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE SEX OFFENDER REGISTRY FUND CREATED IN SUBSECTION (7) OF THIS SECTION.

SECTION 13. 16-22-111 (1) (b) and (2), Colorado Revised Statutes, are amended to read:

16-22-111. Internet posting of sex offenders - procedure. (1) The CBI shall post a link on the state of Colorado homepage on the internet to a list containing the names, addresses, and physical descriptions of certain persons and descriptions of the offenses committed by said persons. A person's physical description shall include, but need not be limited to, the person's sex, height, and weight, any identifying characteristics of the person, and a digitized photograph or image of the person. The list shall specifically exclude any reference to any victims of the offenses. The list shall include the following persons:

(b) Any person sentenced as or found to be ~~an offender~~ A SEXUALLY VIOLENT PREDATOR under the laws of another state or jurisdiction; ~~that are comparable to section 18-3-414.5, C.R.S.;~~

(2) (a) For purposes of paragraph (d) of subsection (1) of this section, a person's failure to register shall be determined by the CBI. Whenever the CBI's records show that a person has failed to register as required by this article, the CBI shall forward to each law enforcement agency with which the person is required to register notice of the person's failure to register by the required date. Each law enforcement agency, within three business days after receiving the notice, shall submit to the CBI written confirmation of the person's failure to register. Upon receipt of the written confirmation from the law enforcement agency, the CBI shall post the information

concerning the person on the internet as required in this section.

(b) IF A LOCAL LAW ENFORCEMENT AGENCY FILES CRIMINAL CHARGES AGAINST A PERSON FOR FAILURE TO REGISTER AS A SEX OFFENDER, AS DESCRIBED IN SECTION 18-3-412.5, C.R.S., THE LOCAL LAW ENFORCEMENT AGENCY SHALL NOTIFY THE CBI. ON RECEIPT OF THE NOTIFICATION, THE CBI SHALL POST THE INFORMATION CONCERNING THE PERSON ON THE INTERNET, AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

SECTION 14. 16-22-112 (4), Colorado Revised Statutes, is amended to read:

16-22-112. Release of information - law enforcement agencies.

(4) Information released pursuant to this section, at a minimum, shall include the name, address or addresses, and aliases of the registrant; THE REGISTRANT'S DATE OF BIRTH; a photograph OF THE REGISTRANT, if REQUESTED AND readily available; AND a history of the convictions OF UNLAWFUL SEXUAL BEHAVIOR resulting in the registrant being required to register pursuant to this article. ~~and any other convictions the registrant may have.~~ Information concerning victims shall not be released pursuant to this section.

SECTION 15. The introductory portion to 16-22-113 (1), Colorado Revised Statutes, is amended, and the said 16-22-113 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16-22-113. Petition for removal from registry. (1) Except as otherwise provided in subsection (3) of this section, any person required to register pursuant to section 16-22-103 or whose information is required to be posted on the internet pursuant to section 16-22-111 may FILE A petition WITH the ~~district~~ court THAT ISSUED THE ORDER OF JUDGMENT FOR THE CONVICTION THAT REQUIRES THE PERSON TO REGISTER, for an order that discontinues the requirement for such registration or internet posting, or both, as follows:

(1.5) IF THE CONVICTION THAT REQUIRES A PERSON TO REGISTER PURSUANT TO THE PROVISIONS OF SECTION 16-22-103 WAS NOT OBTAINED FROM A COLORADO COURT, THE PERSON SEEKING TO DISCONTINUE REGISTRATION OR INTERNET POSTING OR BOTH MAY FILE A CIVIL CASE WITH THE DISTRICT COURT OF THE JUDICIAL DISTRICT IN WHICH THE PERSON RESIDES AND SEEK A CIVIL ORDER TO DISCONTINUE THE REQUIREMENT TO REGISTER OR INTERNET POSTING OR BOTH UNDER THE CIRCUMSTANCES SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

SECTION 16. 16-22-113 (2) (c), Colorado Revised Statutes, is amended, and the said 16-22-113 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

16-22-113. Petition for removal from registry. (2) (c) Upon the filing of the petition, the court shall set a date for a hearing and shall notify the victim of the offense for which the petitioner was required to register, IF THE VICTIM OF THE OFFENSE HAS REQUESTED NOTICE AND HAS PROVIDED CURRENT CONTACT INFORMATION. If the court enters an order discontinuing the petitioner's duty to register, the petitioner shall send a copy of the order to each local law enforcement agency with which the petitioner is registered and the CBI. IF THE VICTIM OF THE

OFFENSE HAS REQUESTED NOTICE, the court shall notify the victim of the offense of its decision either to continue or discontinue the petitioner's duty to register.

(d) ON RECEIPT OF A COPY OF AN ORDER DISCONTINUING A PETITIONER'S DUTY TO REGISTER AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (2):

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

(II) IF THE LOCAL LAW ENFORCEMENT AGENCY MAINTAINS A LOCAL REGISTRY OF SEX OFFENDERS WHO ARE REGISTERED WITH THE LOCAL LAW ENFORCEMENT AGENCY, THE LOCAL LAW ENFORCEMENT AGENCY SHALL REMOVE THE PETITIONER'S SEX OFFENDER REGISTRATION INFORMATION FROM THE LOCAL SEX OFFENDER REGISTRY.

SECTION 17. 18-3-412.5 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-3-412.5. Failure to register as a sex offender. (2) (c) A PERSON WHO IS CONVICTED OF A FELONY SEX OFFENSE IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, AND WHO COMMITS FAILURE TO REGISTER AS A SEX OFFENDER IN THIS STATE COMMITS FELONY FAILURE TO REGISTER AS A SEX OFFENDER AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND SHALL BE SENTENCED AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2).

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

18-3-412.5. Failure to register as a sex offender. (3) (a) Failure to register as a sex offender is a class 1 misdemeanor if the person was convicted of misdemeanor unlawful sexual behavior, or of another offense, the underlying factual basis of which involves misdemeanor unlawful sexual behavior, or if the person received a disposition or was adjudicated for an offense that would constitute misdemeanor unlawful sexual behavior if committed by an adult, or for another offense, the underlying factual basis of which involves misdemeanor unlawful sexual behavior.

(b) A PERSON WHO IS CONVICTED OF A MISDEMEANOR SEX OFFENSE IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, AND WHO COMMITS FAILURE TO REGISTER AS A SEX OFFENDER IN THIS STATE COMMITS MISDEMEANOR FAILURE TO REGISTER AS A SEX OFFENDER AS SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (3).

(5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "UNLAWFUL SEXUAL BEHAVIOR" HAS THE SAME MEANING AS SET FORTH IN SECTION 16-22-102 (9), C.R.S.

SECTION 19. 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 27, 2004