

CHAPTER 174

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 05-1035

BY REPRESENTATIVE(S) Hall, Berens, Borodkin, Buescher, Coleman, Frangas, Green, King, Lindstrom, May M., McGihon, Paccione, Penry, Rose, Schultheis, Stengel, Todd, Romanoff, Boyd, and Stafford;
also SENATOR(S) Williams, Anderson, Grossman, Jones, Mitchell, Owen, and Tupa.

AN ACT**CONCERNING PUBLIC ACCESS TO INFORMATION REGARDING PERSONS REQUIRED TO REGISTER AS SEX OFFENDERS.**

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

SECTION 1. 16-22-110 (6), Colorado Revised Statutes, is amended to read:

16-22-110. Colorado sex offender registry - creation - maintenance - release of information. (6) (a) The general assembly hereby recognizes the need to balance the expectations of persons convicted of offenses involving unlawful sexual behavior and the public's need to adequately protect themselves and their children from these persons, as expressed in section 16-22-112 (1). The general assembly declares, however, that, in making information concerning persons convicted of offenses involving unlawful sexual behavior available to the public, ~~on a limited basis~~; it is not the general assembly's intent that the information be used to inflict retribution or additional punishment on any person convicted of unlawful sexual behavior or of another offense, the underlying factual basis of which involves unlawful sexual behavior.

(b) 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 CBI may inform the requesting party as to whether the person who is the subject of the criminal history check is on the sex offender registry.

(c) A person may request from the CBI a list of ~~those~~ persons on the sex offender registry, ~~who reside within the same local law enforcement agency jurisdiction as the requesting person or in local law enforcement agency jurisdictions contiguous thereto.~~

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

(d) ~~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.~~

(e) Any person requesting information pursuant to paragraph (c) ~~or (d)~~ of this subsection (6) shall show proper identification. ~~or other proof of residence.~~

(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 of the registrant, if requested and readily available; and the conviction resulting in the registrant being required to register pursuant to this article. Information concerning victims shall not be released pursuant to this section.

SECTION 2. 16-22-112, Colorado Revised Statutes, is amended to read:

16-22-112. Release of information - law enforcement agencies. (1) The general assembly finds that persons convicted of offenses involving unlawful sexual behavior have a reduced expectation of privacy because of the public's interest in public safety. The general assembly further finds that the public must have ~~limited~~ access to information concerning persons convicted of offenses involving unlawful sexual behavior that is collected pursuant to this article to allow them to adequately protect themselves and their children from these persons. The general assembly declares, however, that, in making this information available ~~on a limited basis~~ to the public, as provided in this section and section 16-22-110 (6), it is not the general assembly's intent that the information be used to inflict retribution or additional punishment on any person convicted of unlawful sexual behavior or of another offense, the underlying factual basis of which involves unlawful sexual behavior.

(2) (a) A local law enforcement agency shall release information regarding any person registered with the local law enforcement agency pursuant to this article to any person residing within the local law enforcement agency's jurisdiction. ~~Any person requesting information pursuant to this subsection (2) shall show proper identification or other proof of residence.~~ IN ADDITION, THE LOCAL LAW ENFORCEMENT AGENCY MAY POST THE INFORMATION SPECIFIED IN PARAGRAPH (b) OF THIS SUBSECTION (2) ON THE LAW ENFORCEMENT AGENCY'S WEBSITE.

(b) A LOCAL LAW ENFORCEMENT AGENCY MAY POST ON ITS WEBSITE SEX OFFENDER REGISTRATION INFORMATION OF A PERSON FROM ITS REGISTRATION LIST ONLY IF THE PERSON IS:

(I) AN ADULT CONVICTED OF A FELONY REQUIRING THE ADULT TO REGISTER PURSUANT TO SECTION 16-22-103;

(II) AN ADULT CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE OF ANY OF THE FOLLOWING MISDEMEANORS:

- (A) SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (1) (e), C.R.S.;
 - (B) UNLAWFUL SEXUAL CONTACT AS DESCRIBED IN SECTION 18-3-404, C.R.S.;
 - (C) SEXUAL ASSAULT ON A CLIENT AS DESCRIBED IN SECTION 18-3-405.5 (2), C.R.S.;
 - (D) SEXUAL EXPLOITATION OF A CHILD BY POSSESSION OF SEXUALLY EXPLOITIVE MATERIAL AS DESCRIBED IN SECTION 18-6-403 (3) (b.5), C.R.S.;
 - (E) INDECENT EXPOSURE AS DESCRIBED IN SECTION 18-7-302, C.R.S.; OR
 - (F) SEXUAL CONDUCT IN A PENAL INSTITUTION AS DESCRIBED IN SECTION 18-7-701, C.R.S.;
- (III) A JUVENILE ADJUDICATED FOR TWO OR MORE OFFENSES INVOLVING UNLAWFUL SEXUAL BEHAVIOR OR FOR A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, C.R.S.; OR
- (IV) A JUVENILE WHO IS REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103 BECAUSE HE OR SHE WAS ADJUDICATED FOR AN OFFENSE THAT WOULD HAVE BEEN A FELONY IF COMMITTED BY AN ADULT AND HAS FAILED TO REGISTER AS REQUIRED BY SECTION 16-22-103.

~~(3) (a) A local law enforcement agency shall submit to the CBI a request from any person residing within the local law enforcement agency's jurisdiction for the release of information concerning persons required to register pursuant to this article who reside within any law enforcement jurisdiction contiguous to the jurisdictional boundaries of the local law enforcement agency.~~

~~(b) When necessary for public protection and upon demonstration of a need to know, a local law enforcement agency shall submit to the CBI a request from any person residing within the local law enforcement agency's jurisdiction for the release of information concerning persons required to register pursuant to this article who reside outside of the geographic areas described in subsection (2) of this section or paragraph (a) of this subsection (3). 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. AT ITS DISCRETION, A LOCAL LAW ENFORCEMENT AGENCY MAY RELEASE INFORMATION REGARDING ANY PERSON REGISTERED WITH THE LOCAL LAW ENFORCEMENT AGENCY PURSUANT TO THIS ARTICLE TO ANY PERSON WHO DOES NOT RESIDE WITHIN THE LOCAL LAW ENFORCEMENT AGENCY'S JURISDICTION OR MAY POST THE INFORMATION SPECIFIED IN PARAGRAPH (e) OF THIS SUBSECTION (3) ON THE LAW ENFORCEMENT AGENCY'S WEBSITE. IF A LOCAL LAW ENFORCEMENT AGENCY DOES NOT ELECT TO RELEASE INFORMATION REGARDING ANY PERSON REGISTERED WITH THE LOCAL LAW ENFORCEMENT AGENCY TO A PERSON NOT RESIDING WITHIN THE LOCAL LAW ENFORCEMENT AGENCY'S JURISDICTION, THE LOCAL LAW ENFORCEMENT AGENCY MAY SUBMIT A REQUEST FROM THE PERSON TO THE CBI.~~

~~(c) Any person requesting information pursuant to this subsection (3) shall show~~

~~proper identification or other proof of residence.~~

(d) Upon receipt of a request for information from a law enforcement agency pursuant to this subsection (3), the CBI shall mail the requested information to the person making the request. ~~or, at the option of the law enforcement agency, transmit the information back to the law enforcement agency, which may release such information to the person making the request.~~

(e) A LOCAL LAW ENFORCEMENT AGENCY MAY POST ON ITS WEBSITE SEX OFFENDER REGISTRATION INFORMATION OF A PERSON FROM ITS REGISTRATION LIST ONLY IF THE PERSON IS:

(I) AN ADULT CONVICTED OF A FELONY REQUIRING THE ADULT TO REGISTER PURSUANT TO SECTION 16-22-103;

(II) AN ADULT CONVICTED OF A SECOND OR SUBSEQUENT OFFENSE OF ANY OF THE FOLLOWING MISDEMEANORS:

(A) SEXUAL ASSAULT AS DESCRIBED IN SECTION 18-3-402 (1) (e), C.R.S.;

(B) UNLAWFUL SEXUAL CONTACT AS DESCRIBED IN SECTION 18-3-404, C.R.S.;

(C) SEXUAL ASSAULT ON A CLIENT AS DESCRIBED IN SECTION 18-3-405.5 (2), C.R.S.;

(D) SEXUAL EXPLOITATION OF A CHILD BY POSSESSION OF SEXUALLY EXPLOITIVE MATERIAL AS DESCRIBED IN SECTION 18-6-403 (3) (b.5), C.R.S.;

(E) INDECENT EXPOSURE AS DESCRIBED IN SECTION 18-7-302, C.R.S.; OR

(F) SEXUAL CONDUCT IN A PENAL INSTITUTION AS DESCRIBED IN SECTION 18-7-701, C.R.S.;

(III) A JUVENILE ADJUDICATED FOR TWO OR MORE OFFENSES INVOLVING UNLAWFUL SEXUAL BEHAVIOR OR FOR A CRIME OF VIOLENCE AS DEFINED IN SECTION 18-1.3-406, C.R.S.; OR

(IV) A JUVENILE WHO IS REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103 BECAUSE HE OR SHE WAS ADJUDICATED FOR AN OFFENSE THAT WOULD HAVE BEEN A FELONY IF COMMITTED BY AN ADULT AND HAS FAILED TO REGISTER AS REQUIRED BY SECTION 16-22-103.

(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. Information concerning victims shall not be released pursuant to this section.

(5) Any information released pursuant to this section shall include in writing the following statement:

The Colorado sex offender registry includes only those persons who have been required by law to register and who are in compliance with the sex offender registration laws. Persons should not rely solely on the sex offender registry as a safeguard against perpetrators of sexual assault in their communities. The crime for which a person is convicted may not accurately reflect the level of risk.

SECTION 3. 16-22-111, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

16-22-111. Internet posting of sex offenders - procedure. (1.5) IN ADDITION TO THE POSTING REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE CBI MAY POST A LINK ON THE STATE OF COLORADO HOMEPAGE ON THE INTERNET TO A LIST, INCLUDING BUT NOT LIMITED TO THE NAMES, ADDRESSES, AND PHYSICAL DESCRIPTIONS OF ANY PERSON REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103, AS A RESULT OF A CONVICTION FOR A FELONY. A PERSON'S PHYSICAL DESCRIPTION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE PERSON'S SEX, HEIGHT, WEIGHT, AND ANY OTHER IDENTIFYING CHARACTERISTICS OF THE PERSON. THE LIST SHALL SPECIFICALLY EXCLUDE ANY REFERENCE TO ANY VICTIMS OF THE OFFENSES.

SECTION 4. 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, 2005