

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

BILL 5

LLS NO. 17-0151.01 Richard Sweetman x4333

INTERIM COMMITTEE BILL

**Legislative Oversight Committee Concerning the Treatment of Persons
with Mental Illness in the Criminal and Juvenile Justice Systems**

A BILL FOR AN ACT

101 **CONCERNING REMOVING A JUVENILE SEX OFFENDER FROM SEX**
102 **OFFENDER REGISTRIES UPON THE COMPLETION OF HIS OR HER**
103 **SENTENCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems. On or before August 1, 2017, the Colorado bureau of investigation (bureau) shall remove from the state sex offender registry, and any local law enforcement agency that maintains a local registry of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

sex offenders shall remove from its local registry, any registrant who:

- Was required to register as the result of one or more convictions for offenses committed while he or she was a juvenile;
- Has not been convicted as an adult of any offense that would result in him or her being required to register; and
- Has completed his or her sentence for each conviction that required him or her to register.

On and after August 1, 2017, the bureau shall ensure that the registry does not include any such offenders. On and after August 1, 2017, a local law enforcement agency that maintains a local sex offender registry shall ensure that the registry does not include any such offenders.

At least 10 business days before the release or discharge of any person who was required to register as a sex offender as a result of one or more convictions for offenses committed while the registrant was a juvenile, the department of corrections or the department of human services, whichever is applicable, shall provide notice of the person's release or discharge to the bureau and to each local law enforcement agency that maintains a local registry of sex offenders in which the person is registered.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-22-102, **add** (4.2)
3 as follows:

4 **16-22-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (4.2) "JUVENILE" HAS THE SAME MEANING AS SET FORTH IN
7 SECTION 19-1-103 (68).

8 **SECTION 2.** In Colorado Revised Statutes, 16-22-103, **amend**
9 (3) and (4); and **add** (7) as follows:

10 **16-22-103. Sex offender registration - required - applicability**
11 **- exception.** (3) EXCEPT AS DESCRIBED IN SECTION 16-22-110 (10) AND
12 IN SUBSECTION (7) OF THIS SECTION, in addition to the persons specified
13 in subsections (1) and (2) of this section, any person convicted of an
14 offense in any other state or jurisdiction, including but not limited to a

1 military or federal jurisdiction, for which the person, as a result of the
2 conviction, is, was, has been, or would be required to register if he or she
3 resided in the state or jurisdiction of conviction, or for which such person
4 would be required to register if convicted in Colorado, shall be required
5 to register in the manner specified in section 16-22-108, so long as such
6 person is a temporary or permanent resident of Colorado. Such person
7 may petition the court for an order that discontinues the requirement for
8 registration in this state at the times specified in section 16-22-113 for
9 offense classifications that are comparable to the classification of the
10 offense for which the person was convicted in the other state or
11 jurisdiction.

12 (4) (a) EXCEPT AS DESCRIBED IN SECTION 16-22-110 (10) AND IN
13 SUBSECTION (7) OF THIS SECTION, the provisions of this article shall apply
14 to any person who receives a disposition or is adjudicated a juvenile
15 delinquent based on the commission of any act that may constitute
16 unlawful sexual behavior or who receives a deferred adjudication based
17 on THE commission of any act that may constitute unlawful sexual
18 behavior. ~~except that, with respect to section 16-22-113 (1) (a) to (1) (c),~~
19 ~~a person may petition the court for an order to discontinue the duty to~~
20 ~~register as provided in those paragraphs, but only if the person has not~~
21 ~~subsequently received a disposition for, been adjudicated a juvenile~~
22 ~~delinquent for, or been otherwise convicted of any offense involving~~
23 ~~unlawful sexual behavior. In addition,~~

24 (b) The duty to provide notice to a person of the duty to register,
25 as set forth in sections 16-22-105 to 16-22-107, shall apply APPLIES to
26 juvenile parole and probation officers and appropriate personnel of the
27 division of youth corrections in the department of human services.

1 (7) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 22 TO THE
2 CONTRARY, A PERSON IS NO LONGER REQUIRED TO REGISTER WITH THE SEX
3 OFFENDER REGISTRY IF THE PERSON:

4 (a) WAS REQUIRED TO REGISTER AS THE RESULT OF ONE OR MORE
5 CONVICTIONS FOR OFFENSES COMMITTED WHILE HE OR SHE WAS A
6 JUVENILE;

7 (b) HAS NOT BEEN CONVICTED AS AN ADULT OF ANY OFFENSE THAT
8 WOULD RESULT IN HIM OR HER BEING REQUIRED TO REGISTER PURSUANT
9 TO SECTION 16-22-103 OR ANY OTHER PROVISION OF THIS ARTICLE 22; AND

10 (c) HAS COMPLETED HIS OR HER SENTENCE FOR EACH CONVICTION
11 THAT RESULTED IN HIM OR HER BEING REQUIRED TO REGISTER.

12 **SECTION 3.** In Colorado Revised Statutes, 16-22-107, **amend**
13 (5) as follows:

14 **16-22-107. Duties - department of corrections - department of**
15 **human services - confirmation of registration - notice - address**
16 **verification.** (5) (a) In the case of a juvenile who is required to register
17 pursuant to section 16-22-103 and is committed to the department of
18 human services, ~~said~~ THE department OF HUMAN SERVICES shall ~~have and~~
19 carry out the duties specified in this section for the department of
20 corrections with regard to ~~said~~ THE juvenile.

21 (b) AT LEAST TEN BUSINESS DAYS BEFORE THE RELEASE OR
22 DISCHARGE OF ANY PERSON WHO WAS SENTENCED TO THE DEPARTMENT
23 OF CORRECTIONS OR COMMITTED TO THE DEPARTMENT OF HUMAN
24 SERVICES AND REQUIRED TO REGISTER PURSUANT TO SECTION 16-22-103
25 AS A RESULT OF ONE OR MORE CONVICTIONS FOR OFFENSES COMMITTED
26 WHILE THE REGISTRANT WAS A JUVENILE, THE DEPARTMENT OF
27 CORRECTIONS OR THE DEPARTMENT OF HUMAN SERVICES, WHICHEVER IS

1 APPLICABLE, SHALL PROVIDE NOTICE OF THE PERSON'S RELEASE OR
2 DISCHARGE TO THE CBI AND TO EACH LOCAL LAW ENFORCEMENT AGENCY
3 THAT MAINTAINS A LOCAL REGISTRY OF SEX OFFENDERS IN WHICH THE
4 PERSON IS REGISTERED. THE NOTICE MUST INDICATE THAT THE PERSON
5 MAY SATISFY THE DESCRIPTION OF A JUVENILE OFFENDER IN SECTION
6 16-22-110 (10)(a).

7 **SECTION 4.** In Colorado Revised Statutes, 16-22-108, **amend**
8 (1)(d)(I) and (1)(d)(I.5) as follows:

9 **16-22-108. Registration - procedure - frequency - place -**
10 **change of address - fee.** (1) (d) (I) EXCEPT AS DESCRIBED IN SECTIONS
11 16-22-103 (7) AND 16-22-110 (10), any person who is a sexually violent
12 predator and any person who is convicted as an adult of any of the
13 offenses specified in ~~subparagraph (II) of this paragraph (d)~~ SUBSECTION
14 (1)(d)(II) OF THIS SECTION has a duty to register for the remainder of his
15 or her natural life; except that, if the person receives a deferred judgment
16 and sentence for one of the offenses specified in ~~subparagraph (II) of this~~
17 ~~paragraph (d)~~ SUBSECTION (1)(d)(II) OF THIS SECTION, the person may
18 petition the court for discontinuation of the duty to register as provided
19 in section 16-22-113 (1)(d). In addition to registering as required in
20 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,
21 the person shall reregister within five business days before or after the
22 date that is three months after the date on which the person was released
23 from incarceration for commission of the offense requiring registration
24 or, if the person was not incarcerated, after the date on which he or she
25 received notice of the duty to register. The person shall register within
26 five business days before or after that date every three months thereafter
27 until the person's birthday. The person shall reregister within five

1 business days before or after his or her next birthday and shall reregister
2 within five business days before or after that date every three months
3 thereafter. The person shall reregister pursuant to this ~~paragraph (d)~~
4 SUBSECTION (1)(d) with the local law enforcement agency of each
5 jurisdiction in which the person resides or in any jurisdiction if the person
6 lacks a fixed residence on the reregistration date, in the manner provided
7 in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS
8 SECTION.

9 (I.5) (A) EXCEPT AS DESCRIBED IN SECTIONS 16-22-103 (7) AND
10 16-22-110 (10), a person convicted of an offense in another state or
11 jurisdiction, including but not limited to a military or federal jurisdiction,
12 who, as a result of the conviction, is required to register quarterly as a sex
13 offender in the state or jurisdiction of conviction is required to register as
14 provided in ~~subparagraph (f) of this paragraph (d)~~ SUBSECTION (1)(d)(I)
15 OF THIS SECTION so long as the person is a temporary or permanent
16 resident of Colorado.

17 (B) EXCEPT AS DESCRIBED IN SECTIONS 16-22-103 (7) AND
18 16-22-110 (10), a person convicted of an offense in another state or
19 jurisdiction, including but not limited to a military or federal jurisdiction,
20 which conviction would require the person to register as provided in
21 ~~subparagraph (f) of this paragraph (d)~~ SUBSECTION (1)(d)(I) OF THIS
22 SECTION if the conviction occurred in Colorado, is required to register as
23 provided in said ~~subparagraph (f)~~ SUBSECTION (1)(d)(I) so long as the
24 person is a temporary or permanent resident of Colorado.

25 **SECTION 5.** In Colorado Revised Statutes, 16-22-110, **add** (10)
26 as follows:

27 **16-22-110. Colorado sex offender registry - creation -**

1 **maintenance - release of information.** (10) (a) ON OR BEFORE AUGUST
2 1, 2017, THE CBI SHALL REMOVE FROM THE SEX OFFENDER REGISTRY ANY
3 REGISTRANT WHO:

4 (I) WAS REQUIRED TO REGISTER AS THE RESULT OF ONE OR MORE
5 CONVICTIONS FOR OFFENSES COMMITTED WHILE HE OR SHE WAS A
6 JUVENILE;

7 (II) HAS NOT BEEN CONVICTED AS AN ADULT OF ANY OFFENSE
8 THAT WOULD RESULT IN HIM OR HER BEING REQUIRED TO REGISTER
9 PURSUANT TO SECTION 16-22-103 OR ANY OTHER PROVISION OF THIS
10 ARTICLE 22; AND

11 (III) HAS COMPLETED HIS OR HER SENTENCE FOR EACH
12 CONVICTION THAT RESULTED IN HIM OR HER BEING REQUIRED TO
13 REGISTER.

14 (b) ANY LOCAL LAW ENFORCEMENT AGENCY THAT MAINTAINS A
15 LOCAL REGISTRY OF SEX OFFENDERS SHALL REMOVE FROM THE LOCAL
16 REGISTRY ANY REGISTRANT WHO SATISFIES THE DESCRIPTION IN
17 SUBSECTION (10)(a) OF THIS SECTION.

18 (c) (I) ON AND AFTER AUGUST 1, 2017, IN MAINTAINING THE SEX
19 OFFENDER REGISTRY, THE CBI SHALL ENSURE THAT THE REGISTRY DOES
20 NOT INCLUDE ANY OFFENDERS WHO ARE DESCRIBED IN SUBSECTION (10)(a)
21 OF THIS SECTION. THE CBI SHALL IMPLEMENT PROCEDURES TO ENSURE
22 THAT REGISTRANTS WHO SATISFY THE DESCRIPTION IN SUBSECTION (10)(a)
23 OF THIS SECTION ARE PROMPTLY REMOVED FROM THE REGISTRY UPON
24 COMPLETION OF THEIR SENTENCES.

25 (II) ON AND AFTER AUGUST 1, 2017, IN MAINTAINING ANY LOCAL
26 REGISTRY OF SEX OFFENDERS, A LOCAL LAW ENFORCEMENT AGENCY
27 SHALL ENSURE THAT THE REGISTRY DOES NOT INCLUDE ANY OFFENDERS

1 WHO ARE DESCRIBED IN SUBSECTION (10)(a) OF THIS SECTION. EACH
2 LOCAL LAW ENFORCEMENT AGENCY THAT MAINTAINS A LOCAL REGISTRY
3 OF SEX OFFENDERS SHALL IMPLEMENT PROCEDURES TO ENSURE THAT
4 REGISTRANTS WHO SATISFY THE DESCRIPTION IN SUBSECTION (10)(a) OF
5 THIS SECTION ARE PROMPTLY REMOVED FROM THE REGISTRY UPON
6 COMPLETION OF THEIR SENTENCES.

7 **SECTION 6.** In Colorado Revised Statutes, 16-22-112, **amend**
8 (2)(b)(III) as follows:

9 **16-22-112. Release of information - law enforcement agencies.**

10 (2) (b) A local law enforcement agency may post on its website sex
11 offender registration information of a person from its registration list only
12 if the person is:

13 (III) EXCEPT AS DESCRIBED IN SECTIONS 16-22-103 (7) AND
14 16-22-110 (10), a juvenile with a second or subsequent adjudication
15 involving unlawful sexual behavior or for a crime of violence as defined
16 in section 18-1.3-406; ~~C.R.S.~~; or

17 **SECTION 7.** In Colorado Revised Statutes, 16-22-113, **amend**
18 (3) introductory portion and (3)(a); and **repeal** (1)(e) and (1.3)(b) as
19 follows:

20 **16-22-113. Petition for removal from registry.** (1) Except as
21 otherwise provided in subsection (3) of this section, any person required
22 to register pursuant to section 16-22-103 or whose information is required
23 to be posted on the internet pursuant to section 16-22-111 may file a
24 petition with the court that issued the order of judgment for the conviction
25 that requires the person to register for an order to discontinue the
26 requirement for such registration or internet posting, or both, as follows:

27 (e) ~~Except as otherwise provided in subparagraph (II) of~~

1 paragraph (b) of subsection (1.3) of this section, if the person was
2 younger than eighteen years of age at the time of commission of the
3 offense, after the successful completion of and discharge from a juvenile
4 sentence or disposition, and if the person prior to such time has not been
5 subsequently convicted or has a pending prosecution for unlawful sexual
6 behavior or for any other offense, the underlying factual basis of which
7 involved unlawful sexual behavior and the court did not issue an order
8 either continuing the duty to register or discontinuing the duty to register
9 pursuant to paragraph (b) of subsection (1.3) of this section. Any person
10 petitioning pursuant to this paragraph (c) may also petition for an order
11 removing his or her name from the sex offender registry. In determining
12 whether to grant the order, the court shall consider whether the person is
13 likely to commit a subsequent offense of or involving unlawful sexual
14 behavior. The court shall base its determination on recommendations
15 from the person's probation or community parole officer, the person's
16 treatment provider, and the prosecuting attorney for the jurisdiction in
17 which the person was tried and on the recommendations included in the
18 person's presentence investigation report. In addition, the court shall
19 consider any written or oral testimony submitted by the victim of the
20 offense for which the petitioner was required to register. Notwithstanding
21 the provisions of this subsection (1), a juvenile who files a petition
22 pursuant to this section may file the petition with the court to which venue
23 is transferred pursuant to section 19-2-105, C.R.S., if any.

24 (1.3) (b) (i) If a juvenile is eligible to petition to discontinue his
25 or her duty to register pursuant to paragraph (c) of subsection (1) of this
26 section, the court, at least sixty-three days before discharging the
27 juvenile's sentence, shall notify each of the parties described in paragraph

1 ~~(a) of subsection (2) of this section, the juvenile, and the victim of the~~
2 ~~offense for which the juvenile was required to register, if the victim has~~
3 ~~requested notice and has provided current contact information, that the~~
4 ~~court shall consider whether to order that the juvenile may discontinue his~~
5 ~~or her duty to register when the court discharges the juvenile's sentence.~~
6 ~~The court shall set the matter for hearing if any of the parties described~~
7 ~~in paragraph (a) of subsection (2) of this section or the victim of the~~
8 ~~offense objects, or if the juvenile requests a hearing, and shall consider~~
9 ~~the criteria in paragraph (c) of subsection (1) of this section in~~
10 ~~determining whether to continue or discontinue the duty to register. If the~~
11 ~~court enters an order discontinuing the juvenile's duty to register, the~~
12 ~~department of human services shall send a copy of the order to each local~~
13 ~~law enforcement agency with which the juvenile is registered, the juvenile~~
14 ~~parole board, and to the CBI. If the victim of the offense has requested~~
15 ~~notice, the court shall notify the victim of its decision either to continue~~
16 ~~or discontinue the juvenile's duty to register.~~

17 ~~(II) If a juvenile is eligible to petition to discontinue his or her~~
18 ~~registration pursuant to paragraph (c) of subsection (1) of this section and~~
19 ~~is under the custody of the department of human services and yet to be~~
20 ~~released on parole by the juvenile parole board, the department of human~~
21 ~~services may petition the court to set a hearing pursuant to paragraph (c)~~
22 ~~of subsection (1) of this section at least sixty-three days before the~~
23 ~~juvenile is scheduled to appear before the juvenile parole board.~~

24 ~~(III) If a juvenile is eligible to petition to discontinue his or her~~
25 ~~registration pursuant to paragraph (c) of subsection (1) of this section and~~
26 ~~is under the custody of the department of human services and yet to be~~
27 ~~released on parole by the juvenile parole board, the department of human~~

1 ~~services, prior to setting the matter for hearing, shall modify the juvenile's~~
2 ~~parole plan or parole hearing to acknowledge the court order or petition~~
3 ~~unless it is already incorporated in the parole plan.~~

4 (3) The following persons shall ARE not be eligible for relief
5 pursuant to this section, but shall be AND ARE subject for the remainder
6 of their natural lives to the registration requirements specified in this
7 article ARTICLE 22 or to the comparable requirements of any other
8 jurisdictions in which they may reside:

9 (a) EXCEPT AS DESCRIBED IN SECTIONS 16-22-103 (7) AND
10 16-22-110 (10), any person who is a sexually violent predator;

11 **SECTION 8. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.