

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0841.01 Michael Dohr x4347

HOUSE BILL 12-1346

HOUSE SPONSORSHIP

Gardner B.,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING SEX OFFENDER REGISTRATION.

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>.)

Under current law, sex offenders must register based on their residence. The bill would create a registration system for offenders who lack a fixed residence. An offender who registers under "lacks a fixed residence", which the bill defines, must verify his or her registration with the registering agency every 3 months or every month, depending on the offender's registration requirements. Failure to do so is an unclassified misdemeanor. Law enforcement agencies that receive registrations that

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.

include a lack of a fixed residence must report semi-annually the number of such registrations to the department of public safety for 2 years. The department of public safety must assess the effectiveness of the program after 2 years.

The bill clarifies the calculation for the timing of sex offender quarterly registration.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-22-102, **amend**
3 (5.7); and **add** (4.3) and (5.8) as follows:

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

6 (4.3) (a) "LACKS A FIXED RESIDENCE" MEANS THAT A PERSON DOES
7 NOT HAVE A LIVING SITUATION THAT MEETS THE DEFINITION OF
8 "RESIDENCE" PURSUANT TO SUBSECTION (5.7) OF THIS SECTION. "LACKS
9 A FIXED RESIDENCE" MAY INCLUDE, BUT NEED NOT BE LIMITED TO,
10 OUTDOOR SLEEPING LOCATIONS OR ANY PUBLIC OR PRIVATE LOCATIONS
11 NOT DESIGNED AS TRADITIONAL LIVING ACCOMMODATIONS. "LACKS A
12 FIXED RESIDENCE" MAY ALSO INCLUDE TEMPORARY PUBLIC OR PRIVATE
13 HOUSING OR TEMPORARY SHELTER FACILITIES, RESIDENTIAL TREATMENT
14 FACILITIES, OR ANY OTHER RESIDENTIAL PROGRAM OR FACILITY IF THE
15 PERSON REMAINS AT THE LOCATION FOR LESS THAN FOURTEEN DAYS.

16 (b) "LACKS A FIXED RESIDENCE" ALSO INCLUDES A PERSON WHO IS
17 REGISTERED IN ANY JURISDICTION IF THE PERSON:

18 (I) CEASES TO RESIDE AT AN ADDRESS IN THAT JURISDICTION; AND

19 (II) FAILS TO REGISTER:

20 (A) A CHANGE OF ADDRESS IN THE SAME JURISDICTION; OR

21 (B) IN A NEW JURISDICTION PURSUANT TO SECTION 16-22-108 (4);

22 OR

1 (C) PURSUANT TO SECTION 16-22-108 (3).

2 (5.7) "Residence" means a place or dwelling that is used, intended
3 to be used, or usually used for habitation by a person who is required to
4 register pursuant to section 16-22-103. "Residence" may include, but ~~is~~
5 ~~NEED~~ not BE limited to, a temporary shelter or institution, IF THE PERSON
6 RESIDES AT THE TEMPORARY SHELTER OR INSTITUTION FOR FOURTEEN
7 CONSECUTIVE DAYS OR LONGER, if the owner of the shelter or institution
8 consents to the person utilizing the shelter or institution as his or her
9 registered address as required by section 16-22-106 (4) or 16-22-107 (4)
10 (a), and if the residence of the person at the shelter or institution ~~is~~
11 ~~capable of verification~~ CAN BE VERIFIED as required by section 16-22-109
12 (3.5). A person may establish multiple residences by residing in more than
13 one place or dwelling.

14 (5.8) "RESIDES" INCLUDES RESIDENCE AND LACKS A FIXED
15 RESIDENCE.

16 **SECTION 2.** In Colorado Revised Statutes, 16-22-106, **amend**
17 (1) (a) and (4) as follows:

18 **16-22-106. Duties - probation department - community**
19 **corrections administrator - court personnel - jail personnel - notice.**

20 (1) (a) If a person who is required to register pursuant to section
21 16-22-103 is sentenced to probation, the probation department, as soon
22 as possible following sentencing, shall provide notice, as described in
23 section 16-22-105, to the person of ~~the~~ HIS OR HER duty to register in
24 accordance with the provisions of this article with the local law
25 enforcement agency of each jurisdiction in which the person resides, AND
26 THE NOTICE SHALL INCLUDE THE REQUIREMENTS FOR A PERSON WHO
27 REGISTERS AS "LACKS A FIXED RESIDENCE". The person shall be required

1 to sign the notice as confirmation of receipt and to provide the person's
2 date of birth and the address or addresses at which the person resides OR
3 A STATEMENT THAT THE PERSON LACKS A FIXED RESIDENCE. Beginning on
4 May 27, 2004, the court shall specify on the judgment of conviction the
5 duty to register as required in section 16-22-108, including but not limited
6 to the duty to confirm registration if sentenced on or after January 1,
7 2005, and to reregister.

8 (4) For any person who is required to register pursuant to section
9 16-22-103, who is not committed to the department of human services,
10 and who is not sentenced to probation, community corrections, county
11 jail, or the department of corrections, the judge or magistrate who has
12 jurisdiction over the person shall, at sentencing, provide notice, as
13 described in section 16-22-105, to the person of the duty to register in
14 accordance with the provisions of this article with the local law
15 enforcement agency of each jurisdiction in which the person resides, AND
16 THE NOTICE SHALL INCLUDE THE REQUIREMENTS FOR A PERSON WHO
17 REGISTERS AS "LACKS A FIXED RESIDENCE". The person shall be required
18 to sign the notice as confirmation of receipt and to provide the person's
19 date of birth and the address or addresses at which the person resides OR
20 A STATEMENT THAT THE PERSON LACKS A FIXED RESIDENCE.

21 **SECTION 3.** In Colorado Revised Statutes, 16-22-107, **amend**
22 (2) as follows:

23 **16-22-107. Duties - department of corrections - department of**
24 **human services - confirmation of registration - notice - address**
25 **verification.** (2) At least ten business days prior to the release or
26 discharge of any person who has been sentenced to the department of
27 corrections and is required to register pursuant to section 16-22-103, the

1 department of corrections shall provide notice, as described in section
2 16-22-105, to the person of the duty to register in accordance with the
3 provisions of this article with the local law enforcement agency of each
4 jurisdiction in which the person resides, AND THE NOTICE SHALL INCLUDE
5 THE REQUIREMENTS FOR A PERSON WHO REGISTERS AS "LACKS A FIXED
6 RESIDENCE". The person shall be required to sign the notice as
7 confirmation of receipt and to provide the person's date of birth and the
8 address at which the person intends to reside upon release or discharge OR
9 A STATEMENT THAT THE PERSON LACKS A FIXED RESIDENCE.

10 **SECTION 4.** In Colorado Revised Statutes, 16-22-108, **amend**
11 (1) (a), (1) (d) (I), (3) introductory portion, and (3) (f); and **add** (3) (h)
12 and (3) (i) as follows:

13 **16-22-108. Registration - procedure - frequency - place -**
14 **change of address - fee.** (1) (a) (I) Each person who is required to
15 register pursuant to section 16-22-103 shall register with the local law
16 enforcement agency in each jurisdiction in which the person resides. A
17 LOCAL LAW ENFORCEMENT AGENCY SHALL ACCEPT THE REGISTRATION OF
18 A PERSON WHO LACKS A FIXED RESIDENCE; EXCEPT THAT THE LAW
19 ENFORCEMENT AGENCY IS NOT REQUIRED TO ACCEPT THE PERSON'S
20 REGISTRATION IF IT INCLUDES A RESIDENCE OR LOCATION THAT WOULD
21 VIOLATE STATE LAW OR LOCAL ORDINANCE. IF THE RESIDENCE OR
22 LOCATION WITH WHICH THE PERSON ATTEMPTS TO REGISTER CONSTITUTES
23 SUCH A VIOLATION, THE LAW ENFORCEMENT AGENCY SHALL SO ADVISE
24 THE PERSON AND GIVE THE PERSON AN OPPORTUNITY TO SECURE AN
25 ALTERNATE LOCATION WITHIN FIVE DAYS.

26 (II) Each ~~such~~ person WHO IS REQUIRED TO REGISTER PURSUANT
27 TO SECTION 16-22-103 shall initially register or, if sentenced on or after

1 January 1, 2005, confirm his or her initial registration within five business
2 days after release from incarceration for commission of the offense
3 requiring registration or within five business days after receiving notice
4 of the duty to register, if the person was not incarcerated. ~~Such~~ THE
5 person shall register with the local law enforcement agency during
6 business hours by completing a standardized registration form provided
7 to ~~such~~ THE person by the local law enforcement agency and paying the
8 registration fee imposed by the local law enforcement agency as provided
9 in subsection (7) of this section. The CBI shall provide standardized
10 registration forms to the local law enforcement agencies pursuant to
11 section 16-22-109.

12 (d) (I) Any person who is a sexually violent predator and any
13 person who is convicted as an adult of any of the offenses specified in
14 subparagraph (II) of this paragraph (d) has a duty to register for the
15 remainder of his or her natural life; except that, if the person receives a
16 deferred judgment and sentence for one of the offenses specified in
17 subparagraph (II) of this paragraph (d), the person may petition the court
18 for discontinuation of the duty to register as provided in section
19 16-22-113 (1) (d). In addition to registering as required in paragraph (a)
20 of this subsection (1), ~~such~~ THE person shall reregister ~~ninety days after~~
21 ~~the date he or she was released from incarceration for commission of the~~
22 ~~offense requiring registration, or ninety days after the date he or she~~
23 ~~received notice of the duty to register, if the person was not incarcerated,~~
24 ~~and every ninety days thereafter until such person's birthday. Such person~~
25 ~~shall reregister on his or her birthday and shall reregister every ninety~~
26 ~~days thereafter. If a person's birthday or other reregistration day falls on~~
27 ~~a Saturday, Sunday, or holiday, the person shall reregister on the first~~

1 ~~business day following his or her birthday or other reregistration day.~~
2 ~~Such~~ WITHIN FIVE BUSINESS DAYS BEFORE OR AFTER THE DATE THAT IS
3 THREE MONTHS AFTER THE DATE ON WHICH THE PERSON WAS RELEASED
4 FROM INCARCERATION FOR COMMISSION OF THE OFFENSE REQUIRING
5 REGISTRATION OR, IF THE PERSON WAS NOT INCARCERATED, AFTER THE
6 DATE ON WHICH HE OR SHE RECEIVED NOTICE OF THE DUTY TO REGISTER.
7 THE PERSON SHALL REGISTER WITHIN FIVE BUSINESS DAYS BEFORE OR
8 AFTER THAT DATE EVERY THREE MONTHS THEREAFTER UNTIL THE
9 PERSON'S BIRTHDAY. THE PERSON SHALL REREGISTER WITHIN FIVE
10 BUSINESS DAYS BEFORE OR AFTER HIS OR HER NEXT BIRTHDAY AND SHALL
11 REREGISTER WITHIN FIVE BUSINESS DAYS BEFORE OR AFTER THAT DATE
12 EVERY THREE MONTHS THEREAFTER. THE person shall reregister pursuant
13 to this paragraph (d) with the local law enforcement agency of each
14 jurisdiction in which the person resides OR IN ANY JURISDICTION IF THE
15 PERSON LACKS A FIXED RESIDENCE on the reregistration date, in the
16 manner provided in paragraph (a) of this subsection (1).

17 (3) Any person who is required to register pursuant to section
18 16-22-103 shall be required to register within five business days before
19 or after each time ~~such~~ THE person:

20 (f) Becomes a volunteer or changes the volunteer work location,
21 if volunteering at an institution of postsecondary education; ~~or~~

22 (h) CEASES TO LACK A FIXED RESIDENCE AND ESTABLISHES A
23 RESIDENCE; OR

24 (i) CEASES TO RESIDE AT AN ADDRESS AND LACKS A FIXED
25 RESIDENCE.

26 **SECTION 5.** In Colorado Revised Statutes, 16-22-109, **amend**
27 (3.5); and **add** (1) (a.9) as follows:

1 **16-22-109. Registration forms - local law enforcement agencies**
2 **- duties.** (1) The director of the CBI shall prescribe standardized forms
3 to be used to comply with this article, and the CBI shall provide copies of
4 the standardized forms to the courts, probation departments, community
5 corrections programs, the department of corrections, the department of
6 human services, and local law enforcement agencies. The standardized
7 forms may be provided in electronic form. The standardized forms shall
8 be used to register persons pursuant to this article and to enable persons
9 to cancel registration, as necessary. The standardized forms shall provide
10 that the persons required to register pursuant to section 16-22-103
11 disclose such information as is required on the standardized forms. The
12 information required on the standardized forms shall include, but need not
13 be limited to:

14 (a.9) IF A PERSON LACKS A FIXED RESIDENCE, ANY PUBLIC OR
15 PRIVATE LOCATIONS WHERE THE PERSON MAY BE FOUND OR HABITUALLY
16 SLEEPS, WHICH INFORMATION MAY INCLUDE, BUT NEED NOT BE LIMITED
17 TO, CROSS-STREETS, INTERSECTIONS, DIRECTIONS TO OR IDENTIFIABLE
18 LANDMARKS OF THE LOCATIONS, OR ANY OTHER INFORMATION NECESSARY
19 TO ACCURATELY IDENTIFY THE LOCATIONS.

20 (3.5) (a) The local law enforcement agency with which a person
21 registers pursuant to this article shall, as soon as possible following the
22 registrant's first registration with the local law enforcement agency and
23 at least annually thereafter, verify the residential address reported by the
24 registrant on the standardized form; except that, if the registrant is a
25 sexually violent predator, the local law enforcement agency shall verify
26 the registrant's residential address quarterly.

27 (b) IF A PERSON REGISTERS AS "LACKS A FIXED RESIDENCE",

1 VERIFICATION OF THE LOCATION OR LOCATIONS REPORTED BY THE PERSON
2 SHALL BE ACCOMPLISHED BY THE SELF-VERIFICATION ENHANCED
3 REPORTING PROCESS AS DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION
4 (3.5). A LOCAL LAW ENFORCEMENT AGENCY SHALL NOT BE REQUIRED TO
5 VERIFY THE PHYSICAL LOCATION OF A PERSON WHO IS REQUIRED TO
6 COMPLY WITH THE SELF-VERIFICATION ENHANCED REPORTING PROCESS.

7 (c) (I) IN ADDITION TO ANY OTHER REQUIREMENTS PURSUANT TO
8 THIS ARTICLE, A PERSON WHO IS SUBJECT TO ANNUAL REGISTRATION AND
9 WHO LACKS A FIXED RESIDENCE SHALL, AT LEAST EVERY THREE MONTHS,
10 REPORT TO THE LOCAL LAW ENFORCEMENT AGENCY IN WHOSE
11 JURISDICTION OR JURISDICTIONS THE PERSON IS REGISTERED FOR THE
12 SELF-VERIFICATION ENHANCEMENT REPORTING OF THE LOCATION OR
13 LOCATIONS WHERE THE PERSON REMAINS WITHOUT A FIXED RESIDENCE.
14 THE SELF-VERIFICATION PROCESS SHALL BE ACCOMPLISHED CONSISTENT
15 WITH ANY TIME SCHEDULE ESTABLISHED BY THE LOCAL JURISDICTION,
16 WHICH MAY INCLUDE A TIME SCHEDULE THAT IS WITHIN FIVE BUSINESS
17 DAYS BEFORE OR AFTER THE PERSON'S BIRTHDAY. THE PERSON SHALL BE
18 REQUIRED TO VERIFY HIS OR HER LOCATION OR LOCATIONS AND VERIFY
19 ANY AND ALL INFORMATION REQUIRED TO BE REPORTED PURSUANT TO
20 THIS SECTION.

21 (II) IN ADDITION TO ANY OTHER REQUIREMENTS PURSUANT TO THIS
22 ARTICLE, A PERSON WHO IS SUBJECT TO QUARTERLY REGISTRATION OR
23 REGISTRATION EVERY THREE MONTHS AND WHO LACKS A FIXED RESIDENCE
24 SHALL, AT LEAST EVERY MONTH, REPORT TO EACH LOCAL LAW
25 ENFORCEMENT AGENCY IN WHOSE JURISDICTION THE PERSON IS
26 REGISTERED FOR THE SELF-VERIFICATION ENHANCED REPORTING OF THE
27 LOCATION OR LOCATIONS WHERE THE PERSON REMAINS WITHOUT A FIXED

1 RESIDENCE. THE SELF-VERIFICATION PROCESS SHALL BE ACCOMPLISHED
2 CONSISTENT WITH ANY TIME SCHEDULE ESTABLISHED BY THE LOCAL
3 JURISDICTION, WHICH MAY INCLUDE A TIME SCHEDULE THAT IS WITHIN
4 FIVE BUSINESS DAYS BEFORE OR AFTER THE PERSON'S BIRTHDAY. THE
5 PERSON SHALL BE REQUIRED TO VERIFY HIS OR HER LOCATION OR
6 LOCATIONS AND VERIFY ANY AND ALL INFORMATION REQUIRED TO BE
7 REPORTED PURSUANT TO SECTION 16-22-109.

8 (III) A PERSON REQUIRED TO REGISTER PURSUANT TO THIS ARTICLE
9 WHO LACKS A FIXED RESIDENCE AND WHO FAILS TO COMPLY WITH THE
10 PROVISIONS OF SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (c) IS
11 SUBJECT TO PROSECUTION FOR THE CRIME OF FAILURE TO VERIFY
12 LOCATION AS DEFINED IN SECTION 18-3-412.6, C.R.S.

13 (d) BEGINNING ON JULY 1, 2012, AND ENDING JANUARY 1, 2015,
14 THE COLORADO BUREAU OF INVESTIGATION AND EACH LOCAL LAW
15 ENFORCEMENT AGENCY, SUBJECT TO AVAILABLE RESOURCES, SHALL
16 REPORT EVERY SIX MONTHS TO THE DEPARTMENT OF PUBLIC SAFETY THE
17 NUMBER OF PERSONS WHO REGISTERED WITHOUT A FIXED RESIDENCE. THE
18 DEPARTMENT MAY REQUIRE ADDITIONAL INFORMATION TO BE REPORTED.
19 BY MARCH 31, 2015, THE DEPARTMENT SHALL ASSESS THE
20 EFFECTIVENESS OF THE REGISTRATION FOR OFFENDERS WHO LACK A FIXED
21 RESIDENCE.

22 **SECTION 6.** In Colorado Revised Statutes, **add** 18-3-412.6 as
23 follows:

24 **18-3-412.6. Failure to verify location as a sex offender.** (1) A
25 PERSON WHO IS REQUIRED TO REGISTER PURSUANT TO ARTICLE 22 OF TITLE
26 16, C.R.S., AND WHO LACKS A FIXED RESIDENCE, AS DEFINED IN THAT
27 ARTICLE, AND WHO FAILS TO REGISTER AS REQUIRED BY THAT ARTICLE,

1 COMMITS THE OFFENSE OF FAILURE TO VERIFY LOCATION AS A SEX
2 OFFENDER.

3 (2) (a) IN A PROSECUTION FOR A VIOLATION OF THIS SECTION, IT IS
4 AN AFFIRMATIVE DEFENSE THAT:

5 (I) UNCONTROLLABLE CIRCUMSTANCES PREVENTED THE PERSON
6 FROM COMPLYING; AND

7 (II) THE PERSON DID NOT CONTRIBUTE TO THE CREATION OF THE
8 CIRCUMSTANCES IN RECKLESS DISREGARD OF THE REQUIREMENT TO
9 COMPLY; AND

10 (III) THE PERSON COMPLIED AS SOON AS THE CIRCUMSTANCES
11 CEASED TO EXIST.

12 (b) IN ORDER TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT TO
13 THIS SUBSECTION (2), THE DEFENDANT SHALL PROVIDE NOTICE TO THE
14 PROSECUTING ATTORNEY AS SOON AS PRACTICABLE, BUT NOT LATER THAN
15 THIRTY DAYS PRIOR TO TRIAL, OF HIS OR HER NOTICE OF INTENT TO RELY
16 UPON THE AFFIRMATIVE DEFENSE. THE NOTICE SHALL INCLUDE A
17 DESCRIPTION OF THE UNCONTROLLABLE CIRCUMSTANCE OR
18 CIRCUMSTANCES AND THE DATES THAT THE UNCONTROLLABLE
19 CIRCUMSTANCES BEGAN AND CEASED TO EXIST IN ADDITION TO THE NAMES
20 AND ADDRESSES OF ANY WITNESSES THE DEFENDANT PLANS TO CALL TO
21 SUPPORT THE AFFIRMATIVE DEFENSE. THE PROSECUTING ATTORNEY SHALL
22 ADVISE THE DEFENDANT OF THE NAMES AND ADDRESSES OF ANY
23 ADDITIONAL WITNESSES WHO MAY BE CALLED TO REFUTE THE
24 AFFIRMATIVE DEFENSE AS SOON AS PRACTICABLE AFTER THEIR NAMES
25 BECOME KNOWN. UPON THE REQUEST OF THE PROSECUTION, THE COURT
26 SHALL FIRST RULE AS A MATTER OF LAW WHETHER THE CLAIMED FACTS
27 AND CIRCUMSTANCES WOULD, IF ESTABLISHED, CONSTITUTE SUFFICIENT

1 EVIDENCE TO SUPPORT SUBMISSION TO THE JURY.

2 (3) FAILURE TO VERIFY LOCATION AS A SEX OFFENDER IS AN
3 UNCLASSIFIED MISDEMEANOR PUNISHABLE BY A SENTENCE OF UP TO
4 THIRTY DAYS IN THE COUNTY JAIL; EXCEPT THAT A THIRD OR SUBSEQUENT
5 VIOLATION OF THIS SECTION IS AN UNCLASSIFIED MISDEMEANOR
6 PUNISHABLE BY UP TO ONE YEAR IN THE COUNTY JAIL.

7 **SECTION 7. Effective date - applicability.** This act takes effect
8 July 1, 2012, and applies to offenses committed on or after said date.

9 **SECTION 8. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.