

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0603.01 Michael Dohr x4347

SENATE BILL 18-026

SENATE SPONSORSHIP

Kagan,

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING MEASURES TO MAKE SEX OFFENDER REGISTRATION
102 MORE EFFECTIVE.

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://leg.colorado.gov>.)

Under current law, a person is required to register as a sex offender (registrant) in Colorado if he or she is a Colorado resident and is required to register in another state. The bill states that a Colorado resident only has to register in Colorado for an out-of-state conviction if the person would be required to register in Colorado if the conviction occurred in Colorado.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

In addition, a registrant is required to register in person at his or her local law enforcement agency. The bill allows the law enforcement agency to waive the in-person registration requirement after initial registration if the person suffers from a physical or intellectual disability to the extent that it is a severe hardship to register in person. If the waiver is authorized, the law enforcement agency must reregister the registrant after verifying the registrant's address and provide documentation of the waiver to the Colorado bureau of investigation and any other law enforcement agency with which the person registers.

Under current law, specified registrants can file a petition to discontinue registration. The bill requires the court to grant a petition to discontinue registration if the registrant has successfully completed his or her sentence, the registrant has not been convicted of a subsequent sex offense, and the required waiting period has expired unless the prosecuting attorney or victim objects and presents credible evidence that the registrant is likely to commit a subsequent offense of unlawful sexual behavior.

Notwithstanding any statutory barriers to the contrary, the bill allows a registrant or his or her legal representative to file a petition to discontinue registration if the registrant is incapacitated and does not present an unacceptable public safety risk. The court shall grant the petition if the petitioner shows that the registrant is incapacitated, does not present an unacceptable public safety risk, and is not likely to commit a subsequent sex offense.

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

2 **SECTION 1.** In Colorado Revised Statutes, 16-22-103, **amend**
3 (3) as follows:

4 **16-22-103. Sex offender registration - required - applicability**
5 **- exception.** (3) In addition to the persons specified in subsections (1)
6 and (2) of this section, any person convicted of an offense in any other
7 state or jurisdiction, including but not limited to a military or federal
8 jurisdiction, for which the person, as a result of the conviction, ~~is, was,~~
9 ~~has been, or would be required to register if he or she resided in the state~~
10 ~~or jurisdiction of conviction, or for which such person would be required~~
11 to register if convicted in Colorado, shall be required to register in the

1 manner specified in section 16-22-108, so long as such person is a
2 temporary or permanent resident of Colorado. Such person may petition
3 the court for an order that discontinues the requirement for registration in
4 this state at the times specified in section 16-22-113 for offense
5 classifications that are comparable to the classification of the offense for
6 which the person was convicted in the other state or jurisdiction.

7 **SECTION 2.** In Colorado Revised Statutes, 16-22-108, **amend**
8 (1)(a)(II) and (1)(d)(I) as follows:

9 **16-22-108. Registration - procedure - frequency - place -**
10 **change of address - fee.** (1) (a) (II) Each person who is required to
11 register pursuant to section 16-22-103 shall initially register or, if
12 sentenced on or after January 1, 2005, confirm his or her initial
13 registration within five business days after release from incarceration for
14 commission of the offense requiring registration or within five business
15 days after receiving notice of the duty to register, if the person was not
16 incarcerated. The person shall register with the local law enforcement
17 agency during business hours by completing a standardized registration
18 form provided to the person by the local law enforcement agency and
19 paying the registration fee imposed by the local law enforcement agency
20 as provided in subsection (7) of this section. AFTER THE INITIAL
21 REGISTRATION, THE LOCAL LAW ENFORCEMENT AGENCY MAY WAIVE THE
22 REQUIREMENT THAT THE PERSON REREGISTER IN PERSON IF THE
23 REGISTRANT SUFFERS FROM A PHYSICAL OR INTELLECTUAL DISABILITY
24 THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES TO THE
25 EXTENT THAT IT IS A SEVERE HARDSHIP TO REREGISTER IN PERSON AND
26 THERE IS A RECORD OF SUCH IMPAIRMENT. IF THE LAW ENFORCEMENT
27 AGENCY WAIVES THE REQUIREMENT TO REREGISTER IN PERSON, THE LAW

1 ENFORCEMENT AGENCY SHALL REREGISTER THE PERSON AFTER VERIFYING
2 THE PERSON'S CURRENT ADDRESS WITH THE PERSON, HIS OR HER
3 CAREGIVER, HIS OR HER FAMILY, THE FACILITY WHERE THE PERSON
4 RESIDES, OR OTHER SOURCE OF VERIFICATION SATISFACTORY TO THE LAW
5 ENFORCEMENT AGENCY. THE LAW ENFORCEMENT AGENCY SHALL PROVIDE
6 VERIFICATION OF THE WAIVER, BY THE SUBMISSION OF A FORM DEVELOPED
7 BY THE CBI, TO THE CBI AND ANY OTHER LAW ENFORCEMENT AGENCY
8 WITH WHICH THE REGISTRANT IS REQUIRED TO REGISTER. IF THE LAW
9 ENFORCEMENT AGENCY ISSUES SUCH A WAIVER, EVERY THREE YEARS THE
10 AGENCY MUST DETERMINE WHETHER THE REGISTRANT STILL MEETS THE
11 WAIVER REQUIREMENTS AND REAUTHORIZE THE WAIVER. The CBI shall
12 provide standardized registration forms to the local law enforcement
13 agencies pursuant to section 16-22-109.

14 (d) (I) Any person who is a sexually violent predator and any
15 person who is convicted as an adult of any of the offenses specified in
16 ~~subparagraph (H) of this paragraph (d)~~ SUBSECTION (1)(d)(II) OF THIS
17 SECTION has a duty to register for the remainder of his or her natural life;
18 except that, if the person receives a deferred judgment and sentence for
19 one of the offenses specified in ~~subparagraph (H) of this paragraph (d)~~,
20 ~~the person may petition the court for discontinuation of the duty to~~
21 ~~register~~ SUBSECTION (1)(d)(II) OF THIS SECTION, THE PERSON'S DUTY TO
22 REGISTER MAY DISCONTINUE as provided in section 16-22-113 (1)(d). In
23 addition to registering as required in ~~paragraph (a) of this subsection (1)~~
24 SUBSECTION (1)(a) OF THIS SECTION, the person shall reregister within five
25 business days before or after the date that is three months after the date
26 on which the person was released from incarceration for commission of
27 the offense requiring registration or, if the person was not incarcerated,

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

12 **SECTION 3.** In Colorado Revised Statutes, 16-22-113, **amend**
13 **(3) introductory portion, (3)(b)(I), and (3)(c); repeal and reenact, with**
14 **amendments, (2); and add (2.5) as follows:**

15 **16-22-113. Petition for removal from registry.** (2) (a) A
16 REGISTRANT WHO IS ELIGIBLE TO PETITION TO DISCONTINUE REGISTRATION
17 PURSUANT TO THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION MUST
18 FILE A PETITION WITH THE COURT OF PROPER JURISDICTION AND SHALL
19 PROVIDE A COPY OF THE PETITION BY CERTIFIED MAIL TO EACH OF THE
20 FOLLOWING PARTIES:

21 (I) EACH LAW ENFORCEMENT AGENCY WITH WHICH THE
22 REGISTRANT IS REQUIRED TO REGISTER;

23 (II) THE DISTRICT ATTORNEY FOR THE JURISDICTION IN WHICH THE
24 PETITION TO DISCONTINUE REGISTRATION HAS BEEN FILED; AND

25 (III) THE PROSECUTING ATTORNEY WHO OBTAINED THE
26 CONVICTION OF THE REGISTRANT.

27 (b) WITHIN TWENTY-ONE DAYS AFTER FILING THE PETITION, THE

1 PETITIONER SHALL FILE WITH THE COURT COPIES OF THE RETURN RECEIPTS
2 RECEIVED FROM EACH PARTY NOTIFIED AND ANY DOCUMENTS SUPPORTING
3 HIS OR HER ELIGIBILITY TO PETITION TO DISCONTINUE REGISTRATION.

4 (c) UPON RECEIPT OF THE PETITION, THE COURT SHALL SET A DATE
5 FOR A HEARING AND SHALL NOTIFY THE PETITIONER AND THE DISTRICT
6 ATTORNEY FOR THAT JURISDICTION OF THE HEARING DATE. THE DISTRICT
7 ATTORNEY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR WHICH THE
8 PETITIONER WAS REQUIRED TO REGISTER PURSUANT TO SECTION
9 24-4.1-303 (11)(b).

10 (d) IF THE DISTRICT ATTORNEY OR THE VICTIM OBJECTS TO THE
11 REGISTRANT'S PETITION, THE DISTRICT ATTORNEY SHALL FILE THE
12 OBJECTION WITH THE COURT WITHIN SIXTY-THREE DAYS AFTER RECEIVING
13 THE NOTICE OF THE PETITION.

14 (e) IF NO OBJECTION IS FILED BY THE DISTRICT ATTORNEY, THE
15 COURT MAY CONSIDER THE PETITION WITHOUT A HEARING AND SHALL
16 GRANT THE PETITION IF THE COURT FINDS THAT THE PETITIONER HAS
17 COMPLETED THE SENTENCE FOR WHICH HE OR SHE WAS REQUIRED TO
18 REGISTER, THE PETITIONER HAS NOT SUBSEQUENTLY BEEN CONVICTED OF
19 UNLAWFUL SEXUAL BEHAVIOR OR OF ANY OTHER OFFENSE, THE
20 UNDERLYING BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL BEHAVIOR,
21 AND THE WAITING TIME PERIOD DESCRIBED IN SUBSECTION (1) OF THIS
22 SECTION HAS EXPIRED.

23 (f) IF THERE IS OBJECTION TO THE PETITION, THE COURT SHALL
24 CONDUCT A HEARING ON THE PETITION. IF THE COURT FINDS THE
25 PETITIONER HAS COMPLETED THE SENTENCE FOR WHICH HE OR SHE WAS
26 REQUIRED TO REGISTER, THE PETITIONER HAS NOT SUBSEQUENTLY BEEN
27 CONVICTED OF UNLAWFUL SEXUAL BEHAVIOR OR OF ANY OTHER OFFENSE,

1 THE UNDERLYING BASIS OF WHICH INVOLVED UNLAWFUL SEXUAL
2 BEHAVIOR, AND THE WAITING TIME PERIOD DESCRIBED IN SUBSECTION (1)
3 OF THIS SECTION HAS EXPIRED, THE COURT SHALL GRANT THE PETITION TO
4 DISCONTINUE REGISTRATION UNLESS THE DISTRICT ATTORNEY PRESENTS
5 CREDIBLE EVIDENCE THAT THE PETITIONER IS LIKELY TO COMMIT A
6 SUBSEQUENT OFFENSE OF OR INVOLVING UNLAWFUL SEXUAL BEHAVIOR.

7 (g) IF THE COURT ENTERS AN ORDER DISCONTINUING
8 REGISTRATION, THE PETITIONER SHALL PROVIDE A COPY OF THE ORDER TO
9 EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE PETITIONER IS
10 REGISTERED AND THE CBI. THE DISTRICT ATTORNEY SHALL NOTIFY THE
11 VICTIM AS PROVIDED IN SECTION 24-4.1-303 (11)(b).

12 (h) ON RECEIPT OF A COPY OF AN ORDER DISCONTINUING A
13 PETITIONER'S DUTY TO REGISTER:

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

17 (II) THE LOCAL LAW ENFORCEMENT AGENCY SHALL REMOVE THE
18 PETITIONER'S SEX OFFENDER REGISTRATION INFORMATION FROM THE
19 LOCAL SEX OFFENDER REGISTRY.

20 (2.5) (a) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO
21 THE CONTRARY, A REGISTRANT OR HIS OR HER LEGAL REPRESENTATIVE
22 MAY FILE A PETITION TO DISCONTINUE REGISTRATION IF THE REGISTRANT
23 SUFFERS FROM A SEVERE DISABILITY TO THE EXTENT THAT HE OR SHE IS
24 INCAPACITATED AND DOES NOT PRESENT AN UNACCEPTABLE RISK TO
25 PUBLIC SAFETY.

26 (b) THE REGISTRANT OR HIS OR HER LEGAL REPRESENTATIVE MUST
27 FILE A PETITION WITH THE COURT OF PROPER JURISDICTION AND SHALL

1 PROVIDE A COPY OF THE PETITION BY CERTIFIED MAIL TO EACH OF THE
2 FOLLOWING PARTIES:

3 (I) EACH LAW ENFORCEMENT AGENCY WITH WHICH THE
4 REGISTRANT IS REQUIRED TO REGISTER;

5 (II) THE DISTRICT ATTORNEY FOR THE JURISDICTION IN WHICH THE
6 PETITION TO DISCONTINUE REGISTRATION HAS BEEN FILED; AND

7 (III) THE PROSECUTING ATTORNEY WHO OBTAINED THE
8 CONVICTION OF THE REGISTRANT.

9 (c) WITHIN TWENTY-ONE DAYS AFTER FILING THE PETITION, THE
10 PETITIONER SHALL FILE WITH THE COURT COPIES OF THE RETURN RECEIPTS
11 RECEIVED FROM EACH PARTY NOTIFIED AND ANY DOCUMENTS SUPPORTING
12 HIS OR HER ELIGIBILITY TO PETITION TO DISCONTINUE REGISTRATION.

13 (d) UPON RECEIPT OF THE PETITION, THE COURT SHALL SET A DATE
14 FOR A HEARING AND SHALL NOTIFY THE PETITIONER AND THE DISTRICT
15 ATTORNEY FOR THAT JURISDICTION OF THE HEARING DATE. THE DISTRICT
16 ATTORNEY SHALL NOTIFY THE VICTIM OF THE OFFENSE FOR WHICH THE
17 PETITIONER WAS REQUIRED TO REGISTER PURSUANT TO SECTION
18 24-4.1-303 (11)(b).

19 (e) IF THE DISTRICT ATTORNEY OR THE VICTIM OBJECTS TO THE
20 REGISTRANT'S PETITION, THE DISTRICT ATTORNEY SHALL FILE THE
21 OBJECTION WITH THE COURT WITHIN SIXTY-THREE DAYS OF RECEIVING THE
22 NOTICE OF THE PETITION.

23 (f) IF NO OBJECTION IS FILED BY THE DISTRICT ATTORNEY, THE
24 COURT MAY CONSIDER THE PETITION WITHOUT A HEARING AND SHALL
25 GRANT THE PETITION IF THE COURT FINDS THE PETITIONER IS
26 INCAPACITATED, DOES NOT PRESENT AN UNACCEPTABLE RISK TO PUBLIC
27 SAFETY, AND IS NOT LIKELY TO COMMIT A SUBSEQUENT OFFENSE OF OR

1 INVOLVING UNLAWFUL SEXUAL BEHAVIOR.

2 (g) IF THERE IS OBJECTION TO THE PETITION, THE COURT SHALL
3 CONDUCT A HEARING ON THE PETITION. THE COURT SHALL GRANT THE
4 PETITION IF THE COURT FINDS THE PETITIONER IS INCAPACITATED, DOES
5 NOT PRESENT AN UNACCEPTABLE RISK TO PUBLIC SAFETY, AND IS NOT
6 LIKELY TO COMMIT A SUBSEQUENT OFFENSE OF OR INVOLVING UNLAWFUL
7 SEXUAL BEHAVIOR.

8 (h) IF THE COURT ENTERS AN ORDER DISCONTINUING
9 REGISTRATION, THE PETITIONER SHALL PROVIDE A COPY OF THE ORDER TO
10 EACH LOCAL LAW ENFORCEMENT AGENCY WITH WHICH THE PETITIONER IS
11 REGISTERED AND THE CBI. THE DISTRICT ATTORNEY SHALL NOTIFY THE
12 VICTIM AS PROVIDED IN SECTION 24-4.1-303 (11)(b).

13 (i) ON RECEIPT OF A COPY OF AN ORDER DISCONTINUING A
14 PETITIONER'S DUTY TO REGISTER:

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

18 (II) THE LOCAL LAW ENFORCEMENT AGENCY SHALL REMOVE THE
19 PETITIONER'S SEX OFFENDER REGISTRATION INFORMATION FROM THE
20 LOCAL SEX OFFENDER REGISTRY.

21 (3) The following persons ~~shall not be~~ ARE NOT eligible for relief
22 pursuant to this section, but shall be subject for the remainder of their
23 natural lives to the registration requirements specified in this ~~article~~
24 ARTICLE 22 or to the comparable requirements of any other jurisdictions
25 in which they may reside:

26 (b) Any person who is convicted as an adult of:

27 (I) FELONY sexual assault, in violation of section 18-3-402;

1 ~~C.R.S.~~, or sexual assault in the first degree, in violation of section
2 18-3-402, ~~C.R.S.~~, as it existed prior to July 1, 2000; or sexual assault in
3 the second degree, in violation of section 18-3-403, ~~C.R.S.~~, as it existed
4 prior to July 1, 2000; or

5 (c) Any adult who ~~has more than one~~ IS SUBSEQUENTLY
6 CONVICTED OF ENGAGING IN UNLAWFUL SEXUAL BEHAVIOR IN A MATTER
7 SEPARATELY BROUGHT AND TRIED FOLLOWING A conviction or
8 adjudication for unlawful sexual behavior in this state or any other
9 jurisdiction.

10 **SECTION 4.** In Colorado Revised Statutes, 24-4.1-302.5, **amend**
11 (1)(b.7) as follows:

12 **24-4.1-302.5. Rights afforded to victims - definitions.** (1) In
13 order to preserve and protect a victim's rights to justice and due process,
14 each victim of a crime has the following rights:

15 (b.7) For a victim of a sex offense, the right to be informed of the
16 filing of a petition by the perpetrator of the offense to terminate sex
17 offender registration pursuant to section 16-22-113 ~~(2)(e)~~, ~~C.R.S.~~ (2) AND
18 (2.5);

19 **SECTION 5.** In Colorado Revised Statutes, 24-4.1-303, **amend**
20 (11)(b) and (14.7)(b) as follows:

21 **24-4.1-303. Procedures for ensuring rights of victims of**
22 **crimes.** (11) The district attorney shall inform a victim of the following:

23 (b) Any of the critical stages specified in section 24-4.1-302 (2)(a)
24 to (2)(j), ~~and~~ (2)(l), AND (2)(r) of a criminal proceeding relating to a
25 person accused of a crime against the victim; except that the district
26 attorney shall not be obligated to inform the victim of any appellate
27 review undertaken by the attorney general's office;

1 (14.7) (b) The court shall notify the victim of petitions filed by sex
2 offenders to cease sex offender registration pursuant to section 16-22-113
3 ~~(2)(c), C.R.S. (2) AND (2.5).~~

4 **SECTION 6. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2018 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.