PETITION APPENDIX

APPENDIX A

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2026 CO 24M

No. 24SC154, *Beagle v. People*—Sexually Violent Predator Designation—Cruel and Unusual Punishment.

The supreme court holds that the sexually violent predator ("SVP") designation, under section 18-3-414.5(1)(a), C.R.S. (2025), and its accompanying requirements do not constitute punishment under the Eighth Amendment to the United States Constitution. We first assess the SVP designation's statutory features under the framework in *Ellingburg v. United States*, 146 S. Ct. 564, 567–68 (2026), and determine that the General Assembly did not intend for the SVP designation to be punishment. From there, we apply the seven factors enumerated in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69 (1963), and determine that the SVP designation's punitive effects do not outweigh this nonpunitive intent by the "clearest proof." Accordingly, the supreme court affirms the judgment of the court of appeals.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 24M

Supreme Court Case No. 24SC154
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 22CA594

Petitioner:

Timothy Paul Beagle,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed
en banc
April 27, 2026

Opinion modified, and as modified, petition for rehearing DENIED. EN BANC.

May 18, 2026

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JUSTICE BOATRIGHT delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ**, **JUSTICE HOOD**, **JUSTICE GABRIEL**, **JUSTICE SAMOUR**, **JUSTICE BERKENKOTTER**, and **JUSTICE BLANCO** joined. **CHIEF JUSTICE MÁRQUEZ**, joined by **JUSTICE GABRIEL**, specially concurred.

JUSTICE BOATRIGHT delivered the Opinion of the Court.

¶1 At sentencing, the district court designated Timothy Paul Beagle as a sexually violent predator ("SVP"). On appeal, Beagle argued that his SVP designation constituted cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution. A division of the court of appeals rejected this argument based on our precedent in *Allen v. People*, 2013 CO 44, ¶ 7, 307 P.3d 1102, 1105, which stated that an SVP designation "is not punishment." *People v. Beagle*, No. 22CA594, ¶ 24 (Jan. 4, 2024). We granted certiorari to consider (1) whether the SVP designation constitutes criminal punishment under the Eighth Amendment, and (2) if so, whether it is cruel and unusual as applied to Beagle.[1]

¶2 Because we determine that the General Assembly did not intend for the SVP designation to be punishment and the designation's punitive effects do not outweigh this nonpunitive intent by the "clearest proof," we hold that the SVP designation and its accompanying requirements do not constitute punishment

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[1] We granted certiorari to review the following issues:

1. Whether the sexually violent predator designation, under section 18-3-414.5(1)(a), C.R.S. (2024), is a criminal punishment under the Eighth Amendment to the United States Constitution.

2. Whether the sexually violent predator designation is cruel and unusual punishment as applied to Petitioner.

under the Eighth Amendment.[2] We thus affirm the judgment of the court of appeals.

I. Background

A. Facts and Procedural History

¶3 In July 2019, Beagle, who was forty-nine years old, picked up two sixteen-year-old girls who had run away from a treatment facility and allowed them to stay in his home for ten days. During this time, Beagle provided the two girls with drugs, repeatedly made sexual advances towards them, and subjected one of them to sexual contact.

¶4 Beagle pleaded guilty to attempted sexual assault and distributing a controlled substance to a minor. An evaluator from the Sex Offender Management Board ("SOMB") conducted an assessment using the Sexually Violent Predator Assessment Screening Instrument ("SVPASI"), which suggested that Beagle met the criteria of an SVP. In particular, Beagle's Sex Offender Risk Scale ("SORS") score was 34.8, more than twelve points over the threshold to be classified as an SVP. Colo. Dep't of Pub. Safety, Div. of Crim. Just., *2023 SVPASI Handbook: Sexually Violent Predator Assessment Screening Instrument* 10–15 (Oct. 2023), https://cdpsdocs.state.co.us/ors/docs/Risks/SVPASIHandbook.pdf [https://perma.cc/

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[2] In light of this disposition, we need not consider (1) Beagle's argument that the SVP designation is cruel and unusual as applied to him or (2) the People's argument that Beagle failed to preserve his Eighth Amendment claim.

5REY-K8AP] ("*SVPASI Handbook*"). The district court found that Beagle met the SVP criteria and designated him as an SVP. The court moreover found that the SVP designation "is not punishment" and instead that its "stated purpose is to protect the community." The district court sentenced Beagle to a total of fifteen years in the custody of the Department of Corrections. Beagle appealed the district court's order designating him as an SVP.

¶5 A division of the court of appeals affirmed, finding that the SVP designation was not "punishment" under the Eighth Amendment. *Beagle*, ¶ 24. The division rejected Beagle's argument that *Allen*, ¶ 7, 307 P.3d at 1105—which stated that an SVP designation "is not punishment"—was abrogated by *People in Interest of T.B.*, 2021 CO 59, ¶ 73, 489 P.3d 752, 772—which held that mandatory lifetime registration as applied to juvenile sex offenders was cruel and unusual punishment. *Beagle*, ¶ 24. While the division stated that there was "arguable tension" between *Allen* and *T.B.*, it determined that *T.B.* did not "expressly overrule" *Allen* because the cases "d[id] not address the same issue." *Beagle*, ¶¶ 23–24. Thus, the division applied *Allen* and held that Beagle's SVP designation was likewise not punishment. *Id.* at ¶ 24. We granted Beagle's petition for certiorari.

B. The "Sexually Violent Predator" Designation in Colorado

¶6 The SVP designation is a heightened classification of sex offender which carries the additional requirement of lifetime registration under the Colorado Sex Offender Registration Act ("CSORA"), §§ 16-22-101 to -115, C.R.S. (2025), and requires law enforcement to carry out additional community notification protocols. The SVP designation and its associated requirements draw from four different sources.

¶7 *First*, section 18-3-414.5, C.R.S. (2025), of the Criminal Code identifies the criteria for the SVP designation. To be designated as an SVP, an offender must (1) be eighteen years of age or older when the offense is committed; (2) be convicted of an enumerated sex offense or an attempt, solicitation, or conspiracy thereof; (3) have committed this offense against a victim who was a stranger to the offender or who was a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and (4) be likely to commit another qualifying sex offense based on the results of the SVPASI. § 18-3-414.5(1)(a)(I)–(IV), (2).

¶8 *Second*, section 16-11.7-103, C.R.S. (2025), of the Code of Criminal Procedure creates the SOMB and delegates the creation of the SVPASI to this consultative body. The SOMB is comprised of twenty-five experts in "adult and juvenile issues relating to persons who commit sex offenses," including mental health professionals, law enforcement, criminal defense attorneys, and judges, among others. § 16-11.7-103(1).

¶9 In cases concerning convicted adult sex offenders, a SOMB-trained evaluator administers the SVPASI, which is designed to identify sex offenders who are likely to commit another sexual assault. § 16-11.7-103(4)(d); *SVPASI Handbook*, at 1, 3. Using the SVPASI, an evaluator can find that an offender is likely to reoffend in one of three ways: (1) the offender has been previously convicted of at least one felony sex offense or two misdemeanor sex offenses; (2) the offender scores above a twenty-two on the SORS; or (3) the offender meets certain psychopathy or personality disorder criteria. *SVPASI Handbook*, at 10–15.

¶10 The SORS formula assesses the risk that sex offenders will have "a new sex or violent court filing within eight years of a conviction" for a qualifying SVP offense. *Id.* at 12. SORS predicts that those who score above a twenty-two on the assessment fall into a risk group with a 50–60% likelihood of reoffending.[3] *Id.* The SORS formula considers (1) the number of adult criminal cases filed; (2) the number of juvenile delinquency cases filed; (3) the number of cases with a revocation from probation or community corrections; and (4) the earliest sex

[3] The SORS formula relies on data from the Colorado Judicial Branch's ICON Case Management Information System. *SVPASI Handbook*, at 12.

offense filing age.[4] *Id.* at 12–13. The legislature has directed the SOMB to revise the SORS formula to accommodate updated research "as appropriate." § 16-11.7-103(4)(d)–(e).

¶11 After the evaluator completes the SVPASI, the district court uses the results as a "primary aid" to determine whether the offender qualifies for an SVP designation under the criteria in section 18-3-414.5(1)(a). *Allen*, ¶¶ 15, 17, 307 P.3d at 1107–08.

¶12 *Third*, CSORA features registration rules unique to those designated as SVPs. Once designated as an SVP, an offender is required to register every three months "for the remainder of [their] natural life," § 16-22-108(1)(d)(I), C.R.S. (2025), and they may not petition for removal from those requirements, § 16-22-113(3)(a), C.R.S. (2025).

¶13 *Fourth and finally*, the Code of Criminal Procedure delineates additional community notification procedures for SVPs. § 16-13-904, C.R.S. (2025); § 16-13-905(1), C.R.S. (2025). Because SVPs have been determined to pose a "high enough level of risk" to their communities, § 16-13-901, C.R.S. (2025), each local law enforcement agency must implement the SOMB's community notification protocols for any SVP who lives within its jurisdiction. §§ 16-13-904, -905(1).

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[4] "Score = (# Adult Cases x 2.1) + (# Juvenile Cases x 3.1) + (# Revocation Cases x 2.2) – (Earliest Sex Offense Filing Age x .23)." *Id.* (emphasis omitted).

Currently, these protocols require law enforcement to use either a town-hall style meeting, or alternative methods like social media, to provide community members with "relevant information" about SVPs living in their community. Colo. Dep't of Pub. Safety, Div. of Crim. Just., *SOMB Criteria, Protocols and Procedures for Community Notification Regarding Sexually Violent Predators* 13 (Apr. 2021), https://dcj.colorado.gov/sites/dcj/files/documents/SVP%20Criteria%20Protocols%20and%20Procedures%202021.pdf [https://perma.cc/RZR6-EXWJ] ("*SOMB Criteria, Protocols and Procedures for Community Notification*").

II. Analysis

¶14 We first lay out the appropriate standard of review in this case. Then, we summarize the legal principles for assessing whether a law constitutes punishment under the Eighth Amendment. From there, we assess the SVP designation's statutory features, applying *Ellingburg v. United States*, 146 S. Ct. 564 (2026), to find that the legislature did not *intend* the SVP designation to be punishment. Finally, applying the seven factors laid out in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69 (1963), we determine that the *effects* of the SVP designation are not so punitive that the scheme, by the "clearest proof," overrides this nonpunitive intent. In so doing, we hold that the SVP designation and its accompanying requirements do not constitute punishment under the Eighth Amendment.

A. Standard of Review

¶15 We review constitutional questions de novo. *Lucero v. People*, 2017 CO 49, ¶ 13, 394 P.3d 1128, 1131. We also review questions of statutory interpretation de novo. *Dubois v. People*, 211 P.3d 41, 43 (Colo. 2009). Statutes are entitled to a presumption of constitutionality; thus, under our separation-of-powers doctrine, we will not declare a statute unconstitutional without a showing that it is unconstitutional beyond a reasonable doubt. *T.B.*, ¶ 25, 489 P.3d at 760.

B. Legal Principles

¶16 The Eighth Amendment to the United States Constitution provides that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.[5] The Colorado Constitution likewise bars "cruel and unusual punishments." Colo. Const. art. II, § 20. Evaluating whether a law constitutes "cruel and unusual punishment" requires us to determine if it imposes punishment in the first place. *Millard v. Camper*, 971 F.3d 1174, 1181 (10th Cir. 2020); *see also Ellingburg*, 146 S. Ct. at 566 (explaining that whether a measure is criminal punishment is a "threshold question" to a similar constitutional challenge under the Ex Post Facto Clause).

[5] The Eighth Amendment is applicable to the states through the Fourteenth Amendment. *See, e.g.*, *Robinson v. California*, 370 U.S. 660, 666 (1962).

¶17 Whether a law imposes criminal punishment presents "a question of statutory construction" that requires a court to first "consider the statute's text and its structure" to determine whether the legislature *intended* the statute to be punitive. *Ellingburg*, 146 S. Ct. at 566–67 (quoting *Smith v. Doe*, 538 U.S. 84, 92 (2003)). If the "text and structure" demonstrate that the legislature intended "'to impose punishment,' that 'ends the inquiry.'" *Id.* at 568 (quoting *Smith*, 538 U.S. at 92).

¶18 However, even if a court determines that the legislature intended the statute to be nonpunitive, a measure may still be considered punishment if the challenging party establishes by the "clearest proof" that the measure's punitive *effects* outweigh this nonpunitive intent. *Id.* at 567 n.1 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 361 (1997)); *Smith*, 538 U.S. at 92. Analysis of a statute's punitive effects has traditionally taken place via the seven factors laid out in *Mendoza-Martinez*. *See, e.g.*, *Smith*, 538 U.S. at 97.

C. Intent

¶19 Beagle maintains that the General Assembly intended for the SVP designation to be punishment because it is partially housed in the Criminal Code and does not otherwise have a legislative declaration espousing a nonpunitive purpose.[6] Additionally, he argues that by placing the SVP designation "near" the section defining "[h]abitual sex offenders against children," § 18-3-412, C.R.S. (2025), the legislature communicated a punitive intent akin to this criminal sentence enhancement. Moreover, he contends that the SVP designation is "part of a criminal sentence," indicating punitive intent, because the SVPASI evaluation is conducted "as a part of the [presentence investigation]" and because the designation itself is entered on the mittimus.

¶20 Following oral argument here, the U.S. Supreme Court announced *Ellingburg*. Beagle submitted *Ellingburg* as a supplemental authority, deeming it relevant to his claim that the legislature intended for the SVP designation to be punishment. In *Ellingburg*, the Court analyzed the "text and structure" of the Mandatory Victims Restitution Act ("MVRA") and found that Congress intended the statute to be criminal punishment. 146 S. Ct. at 569. In so doing, the Court identified several statutory features of the MVRA which "ma[de] abundantly clear" that, when "viewed as a whole," the act imposed punishment. *Id.* at 567. These features included: (1) the MVRA "label[ing] restitution as a 'penalty' for a criminal 'offense'"; (2) restitution being imposed during sentencing; (3) the government, not the victim, being the party adverse to the defendant when

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[6] The SVP statute itself does not include any legislative declaration. *See* § 18-3-414.5.

restitution is ordered; (4) allowing restitution for misdemeanors to be imposed "'in lieu of'" other punishments, such as imprisonment, making it the "sole punishment" for those offenses; (5) allowing noncompliance with restitution payments to result in a court modification of supervised release, probation, or even imprisonment; and (6) the MVRA being codified in the criminal code. *Id.* at 567–68 (quoting 18 U.S.C. § 3663A(a)(1)).

¶21 To be sure, the SVP designation scheme shares some of the statutory features identified by *Ellingburg*: the SVP designation is imposed at sentencing; the People remain an adverse party; the designation is located in the criminal code; and compliance with sex-offender registration is often a condition of probation or parole, so noncompliance could result in a modification of such terms.

¶22 But, the SVP designation definitively lacks the remaining two statutory features identified in *Ellingburg*: it is not labeled a penalty for a criminal offense, and it is not imposed "in lieu of" other punishments.

¶23 While the MVRA labeled restitution as a "penalty," *id.* at 567 (quoting 18 U.S.C. § 3663A(a)(1)), nowhere in the SVP scheme is the designation or any of its associated requirements labeled a "penalty." To the contrary, section 16-22-112(1), C.R.S. (2025), explicitly states that community notification under CSORA should not "be used to inflict retribution or additional punishment on any person." Moreover, the additional community notification requirements for SVPs under sections 16-13-901 to -906, C.R.S. (2025), are accompanied by a clear legislative declaration emphasizing that such community notification "should only occur in cases involving a high degree of risk to the community" and should focus on "providing additional *information and education* to the community." § 16-13-901 (emphasis added). This indicates that the legislature intended the SVP designation to protect and educate communities, not punish offenders.

¶24 Additionally, the Court in *Ellingburg* explained that, per the MVRA, restitution may be imposed "'in lieu of'" misdemeanor punishments, "making restitution the sole punishment for a federal offense in certain circumstances." 146 S. Ct. at 567 (quoting 18 U.S.C. § 3663A(a)(1)). Not so with the SVP designation. Unlike the MVRA, there is no language in section 18-3-414.5 itself, nor in the relevant sentencing provisions, § 18-1.3-406, C.R.S. (2025), that allows a sentencing court to replace *any* portion of a defendant's sentence with the SVP designation.

¶25 *Ellingburg*'s "viewed as a whole" language implies totality of the circumstances review, 146 S. Ct. at 567, whereby this court should not seek to "mechanically tally" factors, *People v. McIntyre*, 2014 CO 39, ¶ 20 n.2, 325 P.3d 583, 588 n.2. Evaluating the statutory features identified in *Ellingburg*, we are particularly persuaded by the fact that the legislature did not label the SVP designation as a penalty and that it even made assurances to the contrary in two different legislative declarations. Thus, when "viewed as a whole," the features of the SVP designation do not indicate punitive intent. *See Ellingburg*, 146 S. Ct. at 567.

¶26 Next, we turn to the seven *Mendoza-Martinez* factors to consider whether the punitive *effects* of the SVP designation sufficiently outweigh the legislature's nonpunitive intent.

D. Effects

¶27 In arguing that the SVP designation's punitive effects override any lack of punitive intent under *Mendoza-Martinez*, Beagle relies on our determination in *T.B.* that lifetime sex-offender registration for juveniles constituted punishment. *T.B.*, ¶ 43, 489 P.3d at 765. He contends that the effects of the SVP designation and its associated requirements are at least as punitive as the scheme in *T.B.*; meaning, the SVP designation is likewise punishment.

¶28 To analyze whether a measure is punitive in effect, courts have considered the seven factors articulated in *Mendoza-Martinez*; namely, whether a measure: (1) "involves an affirmative disability or restraint"; (2) "has historically been regarded as a punishment"; (3) "comes into play only on a finding of scienter"; (4) "promote[s] the traditional aims of punishment—retribution and deterrence"; (5) applies to behavior which is already a crime; (6) has "an alternative purpose to which it may rationally be connected"; and (7) "appears excessive in relation to the alternative purpose assigned." 372 U.S. at 168–69. These seven factors are "'neither exhaustive nor dispositive,'" but are instead "'useful guideposts,'" that are "designed to apply in various constitutional contexts." *Smith*, 538 U.S. at 97 (first quoting *United States v. Ward*, 448 U.S. 242, 249 (1980); and then quoting *Hudson v. United States*, 522 U.S. 93, 99 (1997)).

¶29 We first compare this case to both *Allen* and *T.B.* and deem neither controlling. Then, we apply these *Mendoza-Martinez* factors.

1. Neither *Allen* nor *T.B.* Controls This Analysis

¶30 Beagle challenges the division's reliance on *Allen*, which stated that the SVP designation "is not punishment," ¶ 7, 307 P.3d at 1105, to hold that the SVP designation was not punishment; he points out that *Allen* did not involve an Eighth Amendment challenge and thus did not implicate the *Mendoza-Martinez* factors. Instead, Beagle compares his case to *T.B.*, which held that CSORA's lifetime registration and community notification requirements, as applied to juveniles, were punishment under *Mendoza-Martinez*. *T.B.*, ¶ 43, 489 P.3d at 765.

¶31 We agree that *Allen* is distinguishable. *Allen* considered whether a trial court had erred by designating an offender as an SVP even though the offender did not score high enough on the SVPASI to meet the criterion. ¶¶ 2–3, 307 P.3d at 1104–05. Thus, the issue in *Allen* was whether and to what extent trial courts may deviate from the SVPASI in making an SVP determination, not whether the

SVP designation was punishment under the Eighth Amendment. *Id.* at ¶ 5, 307 P.3d at 1105. So, we had no occasion to analyze the *Mendoza-Martinez* factors. Our remark in *Allen* that the SVP designation is not punishment is not dispositive.[7]

¶32 Turning to *T.B.*, although that case addressed a similar issue involving a juvenile, it does not control our conclusion here. In cases that walk through the seven *Mendoza-Martinez* factors, there will often be some tension between opinions due to differences between statutory schemes. Therefore, our analysis must not adopt, without examination, the conclusions of *similar* cases, such as that of *T.B.* Prior cases addressing similar statutory schemes, though instructive, are not binding, and we must instead conduct our own analysis of a measure's punitive effects using a consistent and thoughtful review of the seven *Mendoza-Martinez* factors.[8]

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[7] And, in fact, then-Justice Márquez noted in her concurrence in *Allen* that the issue of whether the SVP designation was criminal punishment "was not squarely raised" in that case, and so she would "simply assume, without deciding, that an SVP designation is not criminal punishment." ¶ 28 n.5, 307 P.3d at 1110 n.5 (Márquez, J., concurring in the judgment).

[8] We acknowledged as much in *T.B.*:

> The statutory schemes challenged in each of the three cases [cited by T.B.], much like the provisions of CSORA challenged by T.B., are materially different than the more limited registration requirements that the Supreme Court addressed in *Smith*. We thus cannot mechanically apply *Smith*'s holding and reasoning without accounting for these differences.

¶ 40, 489 P.3d at 764.

¶33 Upon review, we view *T.B.* as distinguishable for two reasons. First, *T.B.* analyzed lifetime sex-offender registration *as applied to juveniles*. ¶ 2, 489 P.3d at 755–56. Under the seventh *Mendoza-Martinez* factor, we deemed lifetime registration for juveniles excessive because it (1) "brands juveniles as irredeemably depraved based on acts committed before reaching adulthood," (2) disregards juveniles' "tremendous capacity" for reform, and (3) applies for a greater percentage of a juvenile's life by the "very fact of an offender's youth." *Id.* at ¶¶ 2, 32, 489 P.3d at 755–56, 762. We also judged inapposite *Smith*, in which the Supreme Court held that the sex-offender notification requirements at issue did not constitute public shaming because they involved the "dissemination of accurate information about a criminal record, most of which is already public." *T.B.*, ¶ 52, 489 P.3d at 767 (quoting *Smith*, 538 U.S. at 98). We emphasized that this rationale did not necessarily apply in the juvenile context, and so "[t]he dissemination of information about *juvenile* sex offenders thus appears more punitive in light of the presumptive confidentiality of most other juvenile adjudications." *Id.* (emphasis added).

¶34 Second, in *T.B.*, we determined that CSORA's automatic lifetime registration requirement for repeat juvenile offenders was retributive under the fourth *Mendoza-Martinez* factor because there was no individualized risk assessment. *T.B.*, ¶ 74, 489 P.3d at 772.

¶35 In contrast, here, the SVP designation applies only to adult offenders, § 18-3-414.5(1)(a)(I), whose conviction information is already a matter of public record. Moreover, the designation only applies to such offenders *after* the completion of an individualized risk assessment via the SVPASI. § 16-11.7-103(4)(d).

¶36 Therefore, neither *Allen* nor *T.B.* explicitly addressed the issue presented here: whether the SVP designation or its associated requirements is criminal punishment under the Eighth Amendment. The ultimate question remains whether the punitive effects of the law are so severe as to override the legislature's nonpunitive intent by the "clearest proof," an analysis we approach by weighing the seven *Mendoza-Martinez* factors.

2. The Seven *Mendoza-Martinez* Factors

¶37 Applying the seven *Mendoza-Martinez* factors to this case, we conclude that two of them weigh in favor of finding the SVP designation punitive, one is neutral, and four weigh against.

¶38 We begin with the two factors weighing toward punishment. First, as we acknowledged in *T.B.*, there are ways that the sex-offender registration and community notification programs here resemble a historical form of punishment—namely, public shaming and humiliation. ¶ 52, 489 P.3d at 767.

¶39 Specifically, Beagle maintains that community notification via a town-hall meeting resembles public shaming.[9] And, in its amicus brief, the American Civil Liberties Union of Colorado ("ACLU") takes issue with the alternative to a town-hall meeting most often employed by localities, where police departments publish the required information to their Facebook pages. The ACLU claims that this "functions as a state-sanctioned platform for the public to shame and threaten SVP-designated people" given that the comment sections "are filled with vitriol and threats."

¶40 Although we acknowledge this argument, we also note that it carries limited contextual weight. Public shaming is typically understood to involve confrontation that is both "direct" and "face-to-face," *Smith*, 538 U.S. at 98, yet nothing in the community notification statute mandates such face-to-face confrontation, *see* §§ 16-13-904, -905. In fact, SVPs are not to be permitted to attend the community notification meetings, *eliminating* the risk of any face-to-face confrontation. *SOMB Criteria, Protocols and Procedures for Community Notification*, at 49. Additionally, any shaming that occurs via "vitriol and threats" in the comment sections of social media posts is not *government sponsored*. The statute

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[9] Beagle also argues that the SVP designation resembles "banishment" and "parole" under this factor. But his banishment argument focuses on municipal residency restrictions, the constitutionality of which is not before us. As for parole, we later address this vis-à-vis the "affirmative disability or restraint" factor.

only requires the SOMB to ensure that community notification occurs, § 16-13-904(2), and the SOMB itself provides municipalities with numerous options—including posting on social media—to provide that notice. The fact that some community members choose to leave these types of comments does not transform community notification into "public shaming."

¶41 Second, under the fifth *Mendoza-Martinez* factor, the SVP designation only applies to behavior that is already a crime, given that it is imposed on those who have been convicted of a sex offense. § 18-3-414.5(1)(a)(II).

¶42 As we mentioned, one factor is neutral to our analysis here: whether the law involves an affirmative disability or restraint. We recognize that the burdens of CSORA's registration requirements—in particular their lifetime span—impose certain restraints. But the U.S. Supreme Court has set a high bar for what constitutes an affirmative disability or restraint, generally comparing measures against the "'infamous punishment' of imprisonment." *Hudson*, 522 U.S. at 104 (quoting *Flemming v. Nestor*, 363 U.S. 603, 617 (1960)). In *Smith*, the Court found that Alaska's lifetime sex-offender registration requirements did not constitute an affirmative disability or restraint because they did not "resemble imprisonment, the paradigmatic affirmative disability or restraint." 538 U.S. at 86 (citing *Hudson*, 522 U.S. at 104). And, while Beagle argues that the designation resembles parole or probation, *Smith* distinguished parole or probation from Alaska's SVP scheme—where offenders were "free to move where they wish and to live and work as other citizens, with no supervision." *Id.* at 87. Colorado's SVP scheme similarly does not restrict SVPs to the same degree as parole or probation.

¶43 The other arguments that Beagle makes regarding why he believes the SVP designation is an affirmative disability or restraint are unpersuasive. Namely, any threats to employment or housing are not removed in the absence of the SVP designation and registration scheme. These are collateral consequences stemming from the very nature of the underlying conviction. As the U.S. Supreme Court noted in *Smith*, both landlords and employers often conduct criminal background checks on prospective tenants and employees. *Id.* at 100. As we see it, "these consequences flow not from" the SVP designation, but "from the fact of conviction, already a matter of public record." *Id.* at 101. Thus, we see this factor as weighing, at most, neutrally in our analysis here.[10]

¶44 The remaining four *Mendoza-Martinez* factors definitively weigh against considering the SVP designation as punishment.

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[10] The constitutionality of municipal or federal restrictions on SVPs (e.g., residency constraints) is not before this court today. We are concerned only with the relevant Colorado state law regarding SVPs.

¶45 First, the SVP designation does not require a finding of scienter. The SVP designation is imposed based on the results of the SVPASI, which itself considers many factors, *see supra* Part I.B., but not, in any way, the intent of a defendant.

¶46 Second, the SVP designation's operation does not necessarily promote the traditional aims of "retribution and deterrence." *Mendoza-Martinez*, 372 U.S. at 168. Beagle argues that the SVP designation is retributive because it is imposed for life, meaning it is not tied to a "current or reevaluated individualized risk assessment" and is instead imposed as "retribution for a past offense."

¶47 But the fact that the SVP designation requires an individualized risk assessment in the first place strongly supports the conclusion that the designation is not retributive. In the context of sex offender statutory regimes, the existence of an individualized risk assessment makes it less likely that the scheme is retributive because such a tool seeks to measure the "danger of recidivism" rather than impose punishment based on the "'extent of the wrongdoing.'" *Smith*, 538 U.S. at 102 (quoting *Doe I v. Otte*, 259 F.3d 979, 990 (9th Cir. 2001)).

¶48 In *Smith*, the Supreme Court found that Alaska's sex-offender registration requirements, which differentiated between "individuals convicted of aggravated or multiple offenses and those convicted of a single, nonaggravated offense," were not retributive because they were "reasonably related to the danger of recidivism." *Id.* at 102. Likewise, in *Hendricks*, the Court concluded that a commitment determination under Kansas's Sexually Violent Predator Act was not retributive even when it considered evidence of an offender's past sexually violent behavior because it "does not affix culpability for prior criminal conduct." 521 U.S. at 362. Instead, the Court noted that the Act considered past conduct explicitly for the purposes of determining "future dangerousness." *Id.* Similarly, Colorado's SVP designation scheme is *always* accompanied by an individualized risk assessment tool, the SVPASI, to determine an offender's "danger of recidivism" rather than to impose retribution.

¶49 Neither does the SVP designation sufficiently promote the traditional aim of "deterrence" as conveyed by the fourth *Mendoza-Martinez* factor. Given that "[a]ny number of governmental programs might deter crime without imposing punishment," the "'mere presence'" of a deterrent effect does not alone render a regulatory scheme punitive because this "'would severely undermine the Government's ability to engage in effective regulation.'" *Smith*, 538 U.S. at 102 (quoting *Hudson*, 522 U.S. at 105).

¶50 Beagle does not otherwise demonstrate that the SVP designation promotes "deterrence" of sexual assault. To begin, Beagle's reliance on the Colorado Bureau of Investigation's ("CBI") stated goal that sex-offender registration in general serves to further the "[d]eterrence of sex offenders for committing similar crimes," CBI, *Registration: Goals of the Sex Offender Registry*, https://apps.colorado.gov/

apps/dps/sor/information.jsf [https://perma.cc/7CUX-DWFP], is unavailing because CBI's identified goal related to sex-offender registration in general is not dispositive.

¶51 Furthermore, the SVP designation does not promote the traditional aim of deterrence when it advises community members about a potentially dangerous individual. Registration and community notification alert potential victims about an individual designated as an SVP. Thus, we see these measures as civil regulatory means principally designed to keep a community safe by ensuring that community members can take the steps needed to keep themselves safe.

¶52 Finally, both the sixth and seventh *Mendoza-Martinez* factors—whether a measure is rationally related to a nonpunitive purpose and is not excessive regarding that purpose—weigh against considering the SVP designation as punishment.[11] 372 U.S. at 168–69. In addressing these two factors, the issue is not whether the statute has a "close or perfect fit" with its nonpunitive purpose(s) or whether the legislature "has made the best choice possible to address the problem it seeks to remedy." *Smith*, 538 U.S. at 103, 105. The question is simply whether

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[11] The sixth and seventh *Mendoza-Martinez* factors are often discussed in tandem given that the concepts of rational connection and excessiveness are logically intertwined.

"the regulatory means chosen are reasonable in light of the nonpunitive objective." *Id.* at 105.

¶53 The legislative text associated with the SVP designation clearly indicates that this nonpunitive purpose is "community protection."[12] *See* § 16-22-112(1) (explaining that CSORA aims to provide the public "access" to information); § 16-13-901 (noting that SVPs pose a "high enough level of risk to the community" and that community notification is meant to spread "information and education to the community concerning supervision and treatment of sex offenders").

¶54 And, the designation and its associated registration and notification requirements are rationally related to community protection. They are tools that enable law enforcement to notify community members about those offenders who reside in close proximity to them and are deemed to have the highest risk of reoffending.

¶55 Moreover, the SVPASI is a comparatively well-developed individualized risk assessment tool strengthening the SVP designation's relationship to community protection and lowering the risk that it is excessive by sweeping up only those offenders deemed to have the highest risk of recidivism. Although

[12] Beagle's arguments pointing to how the SVP scheme fails to improve offender well-being or encourage rehabilitation misinterpret the purpose of the SVP designation, which is community protection through education and notification, not through offender rehabilitation. *See* § 16-22-112(1); § 16-13-901.

Beagle argues that the SORS formula does not accurately assess the risk of recidivism on *sex* offenses (because it relies on *all* past criminal history) and otherwise provides no opportunity for reassessment, the SORS goes beyond the relatively minimal risk assessment imposed by Alaska's scheme, which the Supreme Court held was rationally related to "public safety." *Smith*, 538 U.S. at 87. Alaska's sex-offender registration scheme only differentiated between individuals convicted of multiple or aggravated sex offenses and those convicted of a single, nonaggravated sex offense. *Id.* Here, the SORS formula is an evidence-based assessment that considers (1) the number of adult criminal cases filed; (2) the number of juvenile delinquency cases filed; (3) the number of cases with a revocation from probation or community corrections; and (4) the earliest sex offense filing age. *SVPASI Handbook*, at 12; *see supra* Part I.B. Further, the SOMB reports that "fewer than five percent of those assessed with the SORS will score [twenty-two] or more." *SVPASI Handbook*, at 20.

¶56 While the ACLU and Beagle may raise legitimate concerns regarding the statistical accuracy of the SORS and SVPASI to identify those offenders with the highest risk of reoffending, we cannot cross into the policy-making powers of the legislature. The sixth and seventh *Mendoza-Martinez* factors contemplate only reasonableness, not statistical precision, and the SORS formula's reliance on *all* past criminal history—including violent offenses—to predict whether a person will commit another sex offense is reasonable in part because sexual violence is likely to be underreported. *See, e.g.*, Nicholas Scurich & Richard S. John, *The Dark Figure of Sexual Recidivism*, 37 Behav. Sci. & L. 158, 158, 161 (2019). We are not tasked with assessing whether this approach is perfect, only whether it is reasonable.

¶57 Ultimately, although certain effects of the SVP designation may resemble punishment, they do not by the "clearest proof" outweigh the legislature's nonpunitive intent.

¶58 Because we determine that the General Assembly did not intend for the SVP designation to be punishment and the designation's punitive effects do not outweigh this nonpunitive intent by the "clearest proof," we hold that the SVP designation and its accompanying requirements do not constitute punishment under the Eighth Amendment.

III. Conclusion

¶59 For the foregoing reasons, we affirm the judgment of the court of appeals.

CHIEF JUSTICE MÁRQUEZ, joined by **JUSTICE GABRIEL**, specially concurred.

CHIEF JUSTICE MÁRQUEZ, joined by JUSTICE GABRIEL, specially concurring.

¶60 Although I join the majority's opinion, I write separately to highlight concerns with the sexually violent predator ("SVP") designation raised by Colorado's Sex Offender Management Board ("SOMB") that warrant the General Assembly's attention. In the nearly thirty years since it first became part of Colorado law, scientific research has called into question the effectiveness of the SVP designation in reducing recidivism and protecting the public. The SOMB agrees and has repeatedly recommended that the General Assembly eliminate the SVP designation and replace it with a system better aligned with modern research. Given these concerns, I respectfully urge the legislature to review the relevant research and consider whether the SVP designation continues to serve its intended purpose.

¶61 The SOMB is statutorily charged with creating and maintaining the standards for sex offender evaluation and treatment, as well as reviewing and reporting on the evolving science in this area. § 16-11.7-103(4)(e), C.R.S. (2025). In 2016, 2019, and 2022, the SOMB made formal recommendations to the General Assembly to eliminate the SVP designation entirely and replace it with a three-tier system based on an updated risk classification system that better aligns with modern research. Colo. Dep't of Pub. Safety, Div. of Crim. Just., *SOMB Annual Legislative Report: Evidence-Based Practices for the Treatment and Management of*

Adults and Juveniles Who Have Committed Sexual Offenses 31–33 (Jan. 2016) ("2016 Annual Legislative Report"), https://cdpsdocs.state.co.us/somb/resources/SOMB2016AnnualLegislativeReport.pdf [https://perma.cc/8LDX-KKS7]; Colo. Dep't of Regul. Agencies, Off. of Pol'y, Rsch. & Regul. Reform, *2019 Sunset Review: SOMB* 38–39 (Oct. 2019) ("2019 Sunset Review"), https://cdpsdocs.state.co.us/dvomb/SOMB/WN/2019sunset.pdf [https://perma.cc/P3EY-WRVD]; Colo. Dep't of Pub. Safety, Div. of Crim. Just., *SOMB Annual Legislative Report: Evidence-Based Practices for the Treatment and Management of Adults and Juveniles Who Have Committed Sexual Offenses* 26–28 (Jan. 2022) ("2022 Annual Legislative Report"), https://cdpsdocs.state.co.us/dcj/DCJ%20External%20Website/SOMB/Research.Reports/2022%20Legislative%20Report.pdf [https://perma.cc/T55L-7FJA].

¶62 A decade ago, in 2016, the SOMB noted that federal law had not required the use of the SVP designation since 2006, recommended the elimination of the SVP designation, and encouraged exploration of a process to "reassess . . . risk classification . . . based upon changes in [recidivism] risk over time." 2016 Annual Legislative Report, *supra*, at 32–33. These recommendations align with modern research showing that "sex offender recidivism risk declines substantially over time as individuals remain in the community offense-free." Jill S. Levenson, Melissa D. Grady & George Leibowitz, *Grand Challenges: Social Justice and the Need* *for Evidence-Based Sex Offender Registry Reform*, 43 J. Socio. & Soc. Welfare 3, 9, 14, 19–20 (June 2016); *see also* Molly J. Walker Wilson, *The Expansion of Criminal Registries and the Illusion of Control*, 73 La. L. Rev. 509, 520–22 (2013) (collecting and summarizing a series of studies on recidivism rates among sex offenders).

¶63 Three years later, in 2019, the SOMB emphasized again that the SVP designation "is no longer accurate in the current system"; that "[c]urrent practice eliminates the term 'sexually violent predator'" altogether; and notably, that "the term may misrepresent the risk to the public and is therefore confusing to members of the community." 2019 Sunset Review, *supra*, at 38.

¶64 Most recently, in 2022, the SOMB stressed once again that a growing body of research has largely discredited classification systems like those in the SVP designation for two reasons: (1) they do not accurately assess a person's recidivism risk; and (2) mislabeling someone as higher risk than they actually are can increase the risk of recidivism by depriving individuals of strong social ties and stable housing and employment. 2022 Annual Legislative Report, *supra*, at 26–28*; see also* Kristen M. Zgoba & Meghan M. Mitchell, *The Effectiveness of Sex Offender Registration and Notification: A Meta-Analysis of 25 Years of Findings*, 19 J. Experimental Criminology 71, 90 (Sep. 2021) ("Maintaining low or reduced risk individuals on registries for a lifetime, or barring them from petitioning for termination, may promote collateral consequences in the form of housing instability, employment instability, and internet bans, thereby further increasing their risk of reoffending."); Levenson, et al., *supra*, at 9 (explaining that "exclusionary practices activated by shaming labels can isolate stigmatized groups from mainstream social life, solidifying one's deviant identity and fortifying criminal behavior").

¶65 These consistent concerns flagged by the statutory body responsible for sex offender evaluation and treatment standards in Colorado raise important questions about whether the SVP designation continues to serve its intended purpose. Although I join today's opinion, I note these concerns and respectfully call the General Assembly's attention to them.

APPENDIX B

Supreme Court of Colorado
STATE OF COLORADO
2 EAST 14TH AVENUE
DENVER, COLORADO 80203

DATE FILED
May 18, 2026
CASE NUMBER: 2024SC154

MARIZELA CANO
CLERK OF THE COURT

Beagle v. People

Case No. 24SC154

ORDER OF COURT

Upon consideration of the Petition for Rehearing filed in the above cause, and now being sufficiently advised in the premises,

The Opinion in the above referenced case announced on April 27, 2026, has been modified, and as Modified, said Petition for Rehearing shall be, and the same hereby is DENIED.

Attached is the marked page showing the revisions – page 4.

BY THE COURT, EN BANC, May 18, 2026.

under the Eighth Amendment.[2] We thus affirm the judgment of the court of appeals.

I. Background

A. Facts and Procedural History

¶3 In July 2019, Beagle, who was forty-nine years old, picked up two sixteen-year-old girls who had run away from a treatment facility and allowed them to stay in his home for ten days. During this time, Beagle provided the two girls with drugs, repeatedly made sexual advances towards them, and subjected one of them to sexual contact ~~sexually assaulted one of them~~.

¶4 Beagle pleaded guilty to attempted sexual assault and distributing a controlled substance to a minor. An evaluator from the Sex Offender Management Board ("SOMB") conducted an assessment using the Sexually Violent Predator Assessment Screening Instrument ("SVPASI"), which suggested that Beagle met the criteria of an SVP. In particular, Beagle's Sex Offender Risk Scale ("SORS") score was 34.8, more than twelve points over the threshold to be classified as an SVP. Colo. Dep't of Pub. Safety, Div. of Crim. Just., *2023 SVPASI Handbook: Sexually Violent Predator Assessment Screening Instrument* 10–15 (Oct. 2023), https://cdpsdocs.state.co.us/ors/docs/Risks/SVPASIHandbook.pdf [https://perma.cc/

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[2] In light of this disposition, we need not consider (1) Beagle's argument that the SVP designation is cruel and unusual as applied to him or (2) the People's argument that Beagle failed to preserve his Eighth Amendment claim.

APPENDIX C

COLORADO COURT OF APPEALS

Court of Appeals No. 22CA0594
Jefferson County District Court No. 20CR2340
Honorable Jeffrey R. Pilkington, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Timothy Paul Beagle,

Defendant-Appellant.

ORDER AFFIRMED

Division III
Opinion by JUDGE SCHUTZ
J. Jones and Johnson, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)
Announced January 4, 2024

Philip J. Weiser, Attorney General, Jaycey DeHoyos, Assistant Attorney General, Denver, Colorado, for Plaintiff-Appellee

Megan A. Ring, Colorado State Public Defender, Kevin M. Whitfield, Deputy State Public Defender, Denver, Colorado, for Defendant-Appellant

¶ 1 Defendant, Timothy Paul Beagle, pleaded guilty to attempted sexual assault and distribution of a controlled substance to a minor. He appeals the district court's order designating him a sexually violent predator (SVP). We affirm.

I. Background and Procedural History

¶ 2 In July 2019, E.S. and A.F., both sixteen years old, ran away from a treatment facility. Beagle, who was forty-nine years old, picked up the girls as they were hitchhiking on the highway. Beagle then allowed them to stay in his home with his wife and teenage daughter for about ten days. Beagle was aware that the girls were runaways and helped them dye their hair to avoid detection. He also told the girls not to tell him their last names so that they could better trust him.

¶ 3 Throughout their stay at his home, Beagle provided the girls with drugs, including Xanax and psychedelic mushrooms. He repeatedly made sexual overtures toward the girls such as mentioning that he and his wife had past sexual relationships with teenage girls, telling them they were pretty, and saying that he could sell them into sexual slavery and "make a lot of money off of y'all."

¶ 4 In addition to the drugs, Beagle gave the girls gifts, including jewelry, clothes, and living essentials. On the second or third night, Beagle provided E.S. with psychedelic mushrooms. As she was falling asleep, he placed his hand on her butt. When she objected, he told her to go with him to the bathroom or "something really bad is going to happen." He sexually assaulted her in the bathroom.

¶ 5 The local news covered the girls' disappearances, and through social media, Beagle learned that E.S.'s family members had offered a $25,000 reward for information about her whereabouts. Shortly afterward, Beagle dropped the girls off at the Wheat Ridge Police Station. He instructed the girls and his family to lie and say that he met E.S. and A.F. through his daughter at a park. About two days after their return, E.S. disclosed that Beagle had sexually assaulted her.

¶ 6 Beagle was arrested and charged with multiple counts related to the incident. He pleaded guilty to one count of attempt to commit sexual assault and one count of distribution of a controlled substance to a minor in exchange for dismissal of the remaining charges.

¶ 7 In advance of sentencing, the probation department worked with an evaluator approved by the Sex Offender Management Board (SOMB) to complete a Sexually Violent Predator Assessment Screening Instrument (SVPASI) of Beagle. Based on the results of the SVPASI, the evaluator recommended that the district court designate Beagle an SVP.

¶ 8 The day before the sentencing hearing, Beagle's counsel filed a motion for a determination that Beagle was not an SVP as defined in section 18-3-414.5, C.R.S. 2023. Beagle's counsel took issue with how Beagle's SVPASI score was calculated, citing the Eighth Amendment prohibition against cruel and unusual punishment and the inherent unreliability of the SVPASI. At the sentencing hearing, the court found that Beagle met the SVP criteria, designated him an SVP, and sentenced him to fifteen years in the custody of the Department of Corrections.

II. SVP Designation

¶ 9 Beagle contends that the district court erred by designating him an SVP because he did not promote his relationship with E.S. as contemplated by section 18-3-414.5(1)(a)(III). We disagree.

A. Standard of Review and Applicable Law

¶ 10 A district court's SVP designation presents a mixed question of fact and law. *Allen v. People*, 2013 CO 44, ¶ 4. We defer to the district court's factual findings if they are supported by the record, and we review its legal conclusions de novo. *Id.*

¶ 11 To be designated an SVP, an offender must be (1) eighteen years of age or older when the offense is committed; (2) convicted of one of an enumerated class of sex offenses — including attempted sexual assault; (3) convicted of perpetrating the assault on a victim who was a stranger to the offender or one with whom the offender established or promoted a relationship primarily for sexual victimization purposes; and (4) likely to recidivate by committing a similar sexual offense based on the results of the SVPASI. § 18-3-414.5(1)(a)(I)-(IV), C.R.S. 2023; *Allen*, ¶ 6.

¶ 12 Under the statute, the probation department, in coordination with an evaluator, must complete the SVPASI. § 18-3-414.5(2). The district court must then make specific factual findings on each of the four factors, using the results of the SVPASI as a primary aid in determining whether the defendant is an SVP. § 18-3-414.5(2); *see Allen*, ¶¶ 15-17.

¶ 13 Offenders "promote a relationship" within the meaning of section 18-3-414.5(1)(a)(III) if they engage in conduct, other than the sexual assault that led to the conviction, that encouraged the victim with whom they had a limited relationship to enter into a broader relationship primarily for the purpose of sexual victimization. *People v. Gallegos*, 2013 CO 45, ¶ 14.

B. Application

¶ 14 Beagle argues that there was insufficient evidence for the court to find that he promoted a relationship with E.S. for the primary purpose of sexual victimization. He reasons that he did not have long-term or premediated plans to provide the girls housing; instead, they were living with him from day-to-day. Beagle also argues that evidence that he supplied E.S. with drugs was so intertwined with the actual sexual assault that it could not be considered in determining whether he promoted a relationship with E.S. We are not persuaded.

¶ 15 There is ample record support for the district court's finding that Beagle promoted his relationship with E.S. for the purpose of sexual victimization. The court noted that he engaged in grooming behavior from the time he picked up the girls, continuing through the course of their stay at his home. Rather than going to the police when he learned that E.S. and A.F. ran away from the facility, Beagle opted to bring them to his house.

¶ 16 Additionally, Beagle provided the girls with gifts, including jewelry, clothes, and living essentials, and he instructed them — and his family — to lie to keep the authorities from finding the girls. Beagle made numerous sexual references toward the girls and provided E.S. with psychedelic mushrooms, a dissociative drug that would make it easier for Beagle to sexually assault her. E.S. also disclosed that throughout her time at the home, Beagle would randomly grab her butt.

¶ 17 These findings support the district court's conclusion that Beagle's actions were intended to broaden his relationship with E.S. for the purpose of sexual victimization. Therefore, we discern no error in the district court's conclusion that Beagle met the criteria for the SVP designation.

III. Cruel and Unusual Punishment

¶ 18 Beagle contends the district court erred when it rejected his Eighth Amendment argument, concluding that "[t]he punitive argument fails because, unlike a criminal sentence, the designation

[as] a sexually violent predator is not punishment." Citing *Allen*, the district court noted that the "decision to designate a sex offender as an SVP is legally and practically distinct from [the court's] sentencing function." *See Allen*, ¶ 7.

A. Preservation and Standard of Review

¶ 19 As a predicate matter, the People argue that Beagle failed to preserve his Eighth Amendment argument, and therefore, we should review only for plain error. *See Hagos v. People*, 2012 CO 63, ¶ 14. Beagle argues the issue was preserved, as it was raised in his presentencing motion, so we should review for constitutional harmless error. *See id.* at ¶ 11. We need not resolve the preservation dispute, however, because we conclude that the district court did not commit error — plain or otherwise.

B. Application

¶ 20 Though Beagle acknowledges the supreme court's holding in *Allen*, he argues that we should reevaluate whether the SVP designation may still be considered non-punitive in light of the supreme court's more recent decision in *People in Interest of T.B.*, 2021 CO 59. In that case, the court held that requiring minors with multiple juvenile adjudications to register with the mandatory lifetime sex offender registry constituted cruel and unusual punishment. *Id.* at ¶ 73. The court's analysis turned on the long-term consequences associated with lifetime registration and the proportionality of the punishment compared to juveniles' lesser degree of culpability. *Id.* at ¶¶ 66-68. The court emphasized that juveniles have a comparatively diminished culpability and a greater capacity to reform when compared to adult offenders. *Id.* at ¶ 68.

¶ 21 Beagle argues that the mandatory lifetime sex offender registration and the SVP designation present concerns for adults similar to those posed in *T.B.* He notes that, like the registration requirements, SVP offenders are subject to the SVP designation for life. And because SVP offenders also are subject to registration requirements, they are precluded from receiving government assistance and can struggle to find housing because municipalities are authorized to prohibit SVPs from living in certain areas. Furthermore, Beagle points to the dissent and concurrence in *Allen*, noting that the issue of whether the SVP designation constitutes punishment was not squarely before the court at the time that *Allen* was decided. *See Allen*, ¶ 28 n.5 (Márquez, J., concurring); *see also id.* at ¶ 50 (Coats, J., dissenting). Therefore, Beagle argues, the

Allen decision is not binding precedent on the issue of whether an SVP designation constitutes punishment. Accordingly, reading *T.B.* together with *Allen*'s concurrence and dissent, Beagle asks us to revisit whether an SVP designation constitutes punishment because, according to Beagle, *T.B.* implicitly overruled *Allen*.

¶ 22 The People contend that the issue is settled because the supreme court has determined that an SVP designation is not punishment. Additionally, the People argue the situation in *T.B.* is not analogous to the present matter because *T.B.* only applies to juveniles, while an SVP designation only applies to offenders aged eighteen or older when they committed the predicate crime. Accordingly, the People conclude, the decision in *T.B.* does not disturb the conclusion in *Allen* that an SVP designation is not punishment.

¶ 23 We acknowledge that there is arguable tension between the rationales of *T.B.* and *Allen*. But whether the *Allen* decision needs to be revisited in light of *T.B.* is not a decision for this court to make. Rather, it is the supreme court's sole prerogative to overrule its prior holdings. *People v. Novotny*, 2014 CO 18, ¶ 26.

¶ 24 Though *T.B.* and *Allen* touch on similar issues, they do not address the same issue. *T.B.*'s holding does not expressly overrule *Allen*; therefore, we are bound by the supreme court's precedent that an SVP designation is not punishment. *See Allen*, ¶ 7. Because an SVP designation is not considered punishment, it cannot, by definition, be cruel and unusual punishment. Accordingly, we reject Beagle's claim that the SVP designation violated his rights under the Eighth Amendment.

IV. Disposition

¶ 25 The district court's order is affirmed.

JUDGE J. JONES and JUDGE JOHNSON concur.

APPENDIX D

due March 14. The Court will then set a hearing. I do insist on the parties helping me that I don't lose the 91 days, as well.

But we will flag it, as well. So that takes care of the restitution issue.

Let me first begin by making the SVP findings. I have reviewed this very carefully and I have had another interesting issue that happens to be with Ms. Parsons, as well, where she challenged the validity of subpart 3A. As it turns out, I'm sure those cases are on appeal. But the recent case of People vs. Williamson, 494 P.3d 1135, a 2021 case decided, I believe, in the summer of last year, basically held that the analysis, whether it be under 3A or 3B, was appropriate.

So if this was a 3A case, the Court specifically held that that is a proper analysis. That is, a prior conviction would satisfy the relevant risk factor. I know that's not this case, but I just highlight that I have had that issue in the past which challenged that 3A was not appropriate.

Before the Court now is the challenge that 3B is not appropriate for several reasons. The defendant argues that he should not be designated an SVP for, really, number one, public policy and legislative arguments; and number two, the SORS does not reliably predict the likelihood of recidivism required by the statute.

I will take each of these arguments in turn.

The public policy argument and legislative argument and/or legislative argument ultimately fails. The punitive argument fails because, unlike a criminal sentence, the designation is a sexually violent predator is not punishment. Instead, the SVP designation's stated purpose is to protect the community, unless the trial court's decision to designate a sex offender as an SVP is legally and practically distinct from its sentencing function. That is found in Allen vs. People, 307 P.3d 1102.

Furthermore, this is abundance of authority, but the sexually violent predator SVP statute is protective rather than punitive. The cases include People vs. Valencia, 257 P.3d 1203, Colorado App 2011; People vs. Mendoza, 313 P.3d 637, Colorado App 2011; and People vs. Brosh, 251 P.3d 456, Colorado App 2010; and People vs. Bacon -- that would be my case -- because a sexually violent predator designation is not punishment. Constitutional provisions regarding cruel and unusual punishment do not apply. That is in People vs. Williamson 494 P.3d 1135, Colorado App 2021. And several cases cited therein.

It is clear to me that the binding authority on the Court is this is not -- the designation is not punishment, rather the purpose of the designation is to protect the community against persons who are labeled sexually violent predator. I personally do not like that label, but that is for the legislature to look at and to correct if that is wrong. But I am bound by the law.

The next argument is that the effects of designation would somehow increased recidivism. I don't know if that is true or not. But, again, the purpose of that is to protect the public and there is not any compelling evidence to suggest otherwise.

Finally, there's an argument that SOMB and DORA recommended moving to a tiered system, rather than a SVP designation. That is a legislative fix. That not something that I can do here. The SVP designation is still in effect and until the legislature and/or the SOMB implement a tier system, I am not going -- I do not have authority to somehow change that.

So the Court rejects these arguments about public policy and punitive and the difficulty that it will impose on Mr. Beagle. I have no doubt that that designation will present some obstacles, but that's not for me to decide.

Let me turn to the second argument, which I really think is that part 3B of the SORS does not reliably predict the likelihood of recidivism and that somehow, the argument is that there -- certain offenses are included that shouldn't have been included that, since it was development using only Colorado cases, it should exclude Colorado cases and that when we recalculate by excluding Colorado cases, he narrowly falls below 22.

And as I said before, with the calculation, he is 20.5, which 11.5 less than the threshold.

The court rejects these arguments, as well.

When we look carefully at People vs. Williamson, 494 P.3d 1135, really, the Court found that both 3A and, by dicta, 3B are proper and appropriate ways to measure risk. The holding in People vs. Williamson, I will acknowledge was only as to 3A, but the dicta and the statements in that case suggest that -- and specifically find, that 3B was based on research and that is what is required.

The SORS of both Parts 3A and 3B meet the statutory requirement for a risk screening assessment. That is supported by People vs. Brosh and People vs. Williamson.

Of significance, People vs. Williamson stated, quote: The statute -- I'm not quoting right now. But rather, the statute requires only that the SOMB consider research regarding risk assessment and that the established standards that are evidence-based before it approves the SVPASI. The provisions also indicate that the legislature meant to require the SOMB to limit the screening instrument to a score component like the SORS. In other words, you CAN base it on 3A, which is prior convictions, or Part 3B.

Furthermore, Williamson holds that the research to support Parts 3A and 3B may not be identified. End quote. It is within the SOMB's purview to determine which risk factors will be included in SVPASI and what weight each factor will been given, so long as the SOMB has considered research and incorporated evidence-based standards.

The Court specifically held that the risk analysis under 3A and, by dicta, 3B are based on research and evidence-based standards and it is for THE SOMB to determine what factors to consider and the weight to be given those factors. It is not up to the Court to do so.

Furthermore, I should give substantial deference to the recommendations. Stated differently, it is for the SOMB to consider, research and develop the standards. The SOMB, in particular here, said that, quote, They are to -- I'm sorry -- they are to, quote: Include district and county court cases in Colorado or another state with sex or nonsex misdemeanor or felony charges, regardless of conviction, excluding this case, include cases in which age of defense was 18 or older or less than 18 and filed as an adult. That was a decision best made by the SOMB, it is a decision that Court is not going to second-guess.

I understand the defendant's argument but the argument really doesn't make sense if you are comparing apples to apples. In other words, states that have the descriptive terms as I described, that argument is also not accepted because the next part with juvenile cases talk about include only juvenile delinquency cases in Colorado or another state with sex or nonsex misdemeanor or felony charges, regardless of conviction, including this case, unquote.

And I will emphasize that the SOMB knew what they were doing. Because if you look at the next section, the total number of cases containing a revocation from probation or community corrections, that specifically says "Colorado cases only." It's not to include cases from other jurisdictions.

So the SOMB, in preparing this, said, in certain cases, will include Colorado case and in certain cases, will include cases from other jurisdictions with similar felony or misdemeanor charges.

Again, the Court denies the motion filed by defendant. It's, quote, Motion for Determination That Mr. Beagle Is Not a Sexually Violent Predator As Defined In C.R.S. 18-3-415.

The question now is based on this, do I find him to be a sexually violent predator? I have to make specific findings in that regard.

It is a three/four part analysis. The first part I'm not going to -- he has to be more than 18 years old, so I'm really going to focus on M3 part.

Part 1, it has to be a qualifying crime. I has to be a crime of sexual assault. And those crimes are set forth on page 4 of the report. He qualifies Part 1, because this is a sexual assault in violation of 18-3-402, so Part 1 is satisfied.

The next part is the relationship part and that is Part 2. The Court finds that Part 2 has been satisfied. The relationship criteria has been satisfied because the defendant promoted a relationship with these two young girls by encouraging them with whom he had a limited relationship to enter into a broader relationship, primarily for purpose of sexual victimization.

I rely on People vs. Gallegos, 307 P.3d 1096, 2013 Colorado Supreme Court opinion. Therefore, I find that he promoted a relationship, and I will make specific factual findings in just a moment to further bolster that conclusion.

Finally, the Court finds that Part 3 has been satisfied. It has been satisfied because his SORS score is 34.80, way above the 22 that is required.

I find that -- as I just ruled, that the arguments that I should not rely on that, that I should reject it or somehow recalculate are not accepted by the Court.

Even if they were accepted, the 20.5 the Court would find him to be a sexually violent predator for the following reasons:

In this case, it Mr. Beagle admitted to picking the girls up on the side of the highway. They were fleeing a treatment facility or foster home. He then took them to his home for several days -- I don't know the exact number. But the days approached, I believe, 10 days or longer.

He housed them in their home. He provided drugs to them. He provided the gifts and, I guess, essentials of living to them. And yet, he didn't turn them over to authorities. He didn't do the right thing. When you pick up two young girls along the side of the road, you take them to the authorities and you get them help. He didn't do that.

Later in this grooming context, he had sex with E[redacted] Later he admitted to lying and instructing others to lie. And I'm relying on his statements found in the offense-specific evaluation. He admitted to being sexually attracted to them. When asked how he was going to provide for them financially or why he didn't turn them in, he didn't respond.

So this -- the facts that I have gleaned from all of this paperwork is that he picked up two young girls; he should have turned them in right away; he housed them. And then as he housed them, he was grooming them to do bad things and, eventually, he did sexually assault one of the young girls.

You can call this human trafficking or -- I'm looking for the terminology that was used in here, as well -- and I find that that's what was going on here.

And I also find the change of story that was going on is very troubling, as well, that supports the conclusion to support what the young girls said, as opposed to what he has said.

At the end, I do find that he is a sexually violent predator. Parts 1, 2 and 3 has been established.

The final thing is the sentence. The Court will sentence Mr. Beagle -- I will give him 378 days of credit for time served. I recognize that 10 years is a long time; 15 years is even longer.

The sentence on Count 11 will be five years in the Department of Corrections with credit for time served of 378 days.

The sentence on Count 12 will be 10 years in the Department of Corrections with credit for 378 days.

Those sentences will be consecutive for a total of 15 years.

Anything else from the People?

MS. DZIEDZIC: No, your Honor.

THE COURT: Ms. Parsons, anything else?

MS. PARSONS: Your Honor, the only other thing I would note, we would be asking -- I recognize the presentence credit reflected in the PSI and that would be correct from the date that Mr. Beagle was in custody on this warrant.

However, a detainer was put out on him back in July of 2020. We ask for credit from, at least December 11 of 2020. That is when Mr. Beagle was in custody. He had requested to go to a camp and was given paperwork that he was not eligible because of this detainer and we have documentation of that.

So we will be asking for 439 days because Mr. Beagle was in custody as of that point and prohibiting him from being released on his other case.

THE COURT: Any objection?

MS. DZIEDZIC: No objection.

THE COURT: I will grant for time served 439 days.

Let me also say that, you know, other factors that go into my analysis beyond the facts that I have found, this is Mr. Beagle's ninth felony eviction, I acknowledge

APPENDIX E

District Court, Jefferson County, Colorado 100 Jefferson County Parkway, Golden, CO 80401	DATE FILED: February 21, 2022 11:44 PM
THE PEOPLE OF THE STATE OF COLORADO v. TIMOTHY BEAGLE, Defendant	σ COURT USE ONLY σ
Megan A. Ring, Colorado State Public Defender Lauren Parsons, #48706 Deputy State Public Defender 560 Golden Ridge Road, Suite #100 Golden, CO 80401 Phone: (303) 279-7841 Fax: (303) 279-3082 Email: Lauren.Parsons@coloradodefenders.us	Case Number: 20CR2340 Division 3

MOTION FOR DETERMINATION THAT MR. BEAGLE IS NOT A SEXUALLY VIOLENT PREDATOR AS DEFINED IN C.R.S. § 18-3-414.5

Mr. Timothy Beagle, by and through counsel, respectfully requests that this Court enter an order concluding that Mr. Beagle is not a Sexually Violent Predator, as defined in C.R.S. § 18-3-414.5. As grounds he states:

1. Prior to being sentenced in this case, Mr. Beagle completed a presentence investigation report conducted by a probation officer, who administered the risk assessment screening instrument referenced in C.R.S. § 18-3-414.5(1)(a)(IV). The results of the screening instrument indicate that Mr. Beagle does meet SVP criteria based on his score in the SOMB Sex Offender Risk Scale ("SORS") 2018.

2. However, according to counsel's calculation of Mr. Beagle's prior Colorado filed misdemeanor and felony cases, it is strongly argued that his score does not qualify him as SVP.

3. Pursuant to C.R.S. § 18-3-414.5(1)(a)(I)-(IV), a court can designate a defendant a sexually violent predator ("SVP") when four conditions are met:

    a. The defendant is eighteen years of age or older as of the date the offense is committed;
    b. The defendant was convicted of a qualifying offense specifically listed in the statute;
    c. The defendant committed the offense against a victim who was a stranger to the offender or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and
    d. The defendant, based upon the results of a risk assessment screening instrument developed by the division of criminal justice in consultation with and approved by the SOMB, is likely to subsequently commit one or more of the enumerated sexual

offenses against a stranger or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization.

4. Based on the results of the assessment, the trial court shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator. C.R.S. § 18-3-414.5(2).

5. The Court is not bound by findings on the SVP assessment:

> Thus, section 18-3-414.5 requires only that the court make findings "based upon" the RASI's results. *See Black's Law Dictionary* 192 (rev. 4th ed. 1968) ("based upon" "[m]eans an initial or starting point for calculation"). Accordingly, the statute's plain language indicates that the court is not bound by the RASI's results in determining whether a defendant qualifies as an SVP under section 18-3-414.5(1)(a)(IV). Rather, it indicates that a district court must consider the RASI's results in determining whether defendant is an SVP. *See People v. Rowland*, 207 P.3d 890, 895 (Colo. App. 2009) (§ 18-3-414.5(2) does not require an evidentiary hearing on whether offender is an SVP; the statute requires court to *use* RASI results to make findings whether offender is an SVP); *cf. People v. Stead*, 66 P.3d 117, 123 (Colo. App. 2002) (court did not abuse its discretion in finding that the defendant met two additional RASI factors where evaluators disagreed that defendant met last two RASI factors).

People v. Allen, 310 P.3d 83, 87 (Colo. App. 2010), *aff'd,* 2013 CO 44.

6. Should the trial court deviate from the risk assessment recommendation, specific findings should be made on the record. *People v. Allen*, 310 P.3d 83, 87-88, (Colo. App. 2010).

7. The SVP designation is permanent. There is no provision for future reassessment of a previously imposed SVP designation. *People v. Brosh*, 297 P.3d 1024 (Colo. App. 2012).

8. The Eighth Amendment states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Central to the prohibition against cruel and unusual punishments is the precept of justice that punishment for crime should be graduated and proportioned to the offense. *Weems v. United States*, 217 U.S. 349, 367 (1910).

9. The legislature created a special category for sex offenders who present the highest risk to the community; these offenders are designated "sexually violent predators." SVPs must register every ninety days for the rest of their natural life. Most internet sex offender registries list SVPs separately or highlight them in some way.

10. SVPs are subject to active community notification; that is, law enforcement officials are required to actively warn an entire community when a sexually violent predator plans to move there. C.R.S. § 16-3-901-905.

11. The punitive nature of the SVP and active notification statutes is also suggested by their placement within the Colorado Revised Statutes. The Colorado Sex Offender Registration Act, containing passive notification provisions, is located at Title 16, Article 22. The SVP designation appears in the criminal code within an article entitled "Offenses Against the Person" at C.R.S. § 18-3-414.5. The legislature intended the SVP statute and the active community notification statutes to be punitive because the statutes were excluded from the general registration scheme and were instead placed alongside punitive criminal statutes, and because the legislature chose not to include any disclaimer of a non-punitive purpose like the disclaimers contained within the passive notification statutes.

12. Additionally, sexually violent predators are ineligible for federal housing assistance and, in many instances, ineligible for food stamps. 42 U.S.C. § 13663 (housing); *Agriculture Act of 2014*, Pub. L. No. 113-79, 2014 HR 2642. Colorado law bars sex offenders from many employment positions. C.R.S. § 24-5-101(2) (employment and licenses may be denied to individuals how lack moral character or felons who are not rehabilitated); *e.g.*, C.R.S. § 12-8-132 (barber), § 40-10.1-110(3)(a), (b) (taxi driver), § 12-47-411(11) (restaurant manager).

13. Communities have reacted to such notifications by enacting municipal ordinances prohibiting SVPs from living near schools, parks, playgrounds, recreation centers, ball fields, swimming pools, libraries, daycare centers, bus stops, walk-to-school route, and recreation trails. Landlords are liable if they rent property to an SVP in a prohibited area. Violations of these residency restrictions are punishable by fines and imprisonment. The prohibited areas are so extensive that, in some cities and municipalities, sexually violent predators are effectively banned altogether. For example, one offender who tried to live in Greenwood Village but was banned there, then tried to live in Englewood, which responded by placing 99% of the city off limits. *Ryals v. City of Englewood*, 962 F. Supp.2d 1236, 1240-41, 47 (D. Colo. 2013).

14. The SOMB recognizes that such housing laws *increase* recidivism by destabilizing sex offenders financially and socially. People are much less likely to commit a new sex offense when they have stable housing, employment, and social support. The lack of jobs and housing for sex offenders has become a public safety issue in Colorado because it forces offenders to go "underground" where they are difficult to monitor or track. SOMB, *White Paper on Adult Sex Offender Housing*, at White Paper Final November 2011.pdf - Google Drive.

15. The statutes governing community notification are prefaced by a legislative declaration acknowledging that active notice is a drastic step with serious consequences, to be reserved for situations where it is absolutely necessary:

> The general assembly hereby finds that persons who are convicted of offenses involving unlawful sexual behavior and who are identified as sexually violent predators pose a high enough level of risk to the community that persons in the community should receive notification concerning the identity of these sexually violent predators. The general assembly also recognizes the high potential for vigilantism that often results from community notification and the dangerous

> potential that the fear of such vigilantism will drive a sex offender to disappear and attempt to live without supervision. The general assembly therefore finds that sex offender notification should *only occur in cases involving a high degree of risk* to the community and should only occur under carefully controlled circumstances that include providing additional information and education to the community concerning supervision and treatment of sex offenders.

C.R.S. § 16-13-901 (*emphasis added*).

16. Importantly, the SOMB, in conjunction with the Colorado Division of Criminal Justice in its 2018 SOMB Annual Legislative Report, made a recommendation to move to a three tier risk level system in lieu of SVP designation and to recognize that risk is dynamic and tier levels (or SVP status) should be changed based on changes in risk level. *2018 SOMB Annual Legislative Report*, January 2018, page 5.

17. Similarly, the 2019 Sunset Review by the Colorado Department of Regulatory Agencies, relying on the Sex Offender and Notification Act ("SORNA"), recommended a tiered system to classify sex offenders based on offense, outlining three tiers of sex offenders and abandoning the outmoded term "sexually violent predator." The Review finds that the term (SVP) is no longer accurate in the current system and should be deleted from section 16-11.7-103(4)(d) and any SOMB-related materials. The Review recommends that the General Assembly also consider making similar changes to other statutes to make them uniform, and replace "sexually violent predator" with a risk classification system. *2019 Sunset Review Sex Offender Management Board*, October 2019, page 38.

18. If the General Assembly makes the recommended changes, there is no guarantee that the changes will apply retroactively to individuals already classified as sexually violent predators.

19. In the immediate future, the status will affect Mr. Beagle's ability to receive discretionary parole. According to the *Colorado Sex Offender Management Board Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, Appendix S, the Parole Board should not grant discretionary parole unless he has accessed and successfully completed the Sex Offense Treatment and Monitoring Program (SOTMP).

20. The sexually violent predator designation infringes upon Mr. Beagle's liberty interest down the road as well. In addition to the profound social humiliation and stigma to his reputation that result from being permanently designated a "sexually violent predator," this label carries tangible alterations to his legal status. He is subject to perpetual registration at his own expense every three months so long as he lives in Colorado for the rest of his life even if his personal information remains the same. § 16-22-108(1)(d).

THE SOMB ASSESSMENT SCREENING INSTRUMENT PREDICTS RECIDIVISM FOR BOTH SEXUAL AND VIOLENT OFFENSES; IT IS NOT NARROWLY TAILORED TO THE STATUTORY FINDING REQUIRED BY C.R.S. 18-3-414.5(1)(a)(IV).

21. The SOMB is a creature of statute. C.R.S. § 16-11.7-103. It can validly act only with the confines of its statutorily prescribed authority. *Barbour v. Hanover Sch. Dist. No. 28*, 148 P.3d 268, 272 (Colo. App. 2006). The SOMB is statutorily required to base the risk assessment tool on research. The SOMB is not authorized to base the risk assessment tool on its own opinions about policy that diverge from the legislative mandate. Nor may the SOMB expand the population that the legislature targeted for the SVP designation. The risk of recidivism must be determined based on empirical research, evidence-based practices, and factors that correlate statistically with recidivism, not on a judicial hunch that the SVP category should be broadened to include more people. *Allen v. People*, 307 P.3d 1102, 1112 (Colo. 2013) (Márquez, J., concurring).

22. The SOMB SORS 2018 is the risk assessment screening instrument developed pursuant to C.R.S. § 16-11.7-103(4)(d), which requires the Division of Criminal Justice to work with the SOMB to develop an actuarial risk assessment scale to be used in determining the likelihood that an adult sex offender will commit one or more of the enumerated sexual offenses against a stranger or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization.

23. Actuarial risk is determining the <u>probability</u> that specific groups of individuals will commit a new offense. That is, actuarial risk assessment placed individuals into <u>groups</u> that have a known probability for reoffending. According to the SOMB, those who meet the SORS scoring criteria fall into a risk group that has a 50-60% likelihood of a new sex or violent court filing within eight years of a conviction/deferred judgment for one of the qualifying SVP offenses. *2021 Sexually Violent Predator Assessment Screening Instrument ("SVPASI") Handbook*, January 2021, page 12.

24. However, an examination of new sex offense filings within eight years following a felony sex offense conviction for cases filed in district court from 1999 to 2006 found a base rate for sexual recidivism to be only 5%. This recidivism rate, as it relates to SVPs, is elevated as it includes not only SVP enumerated sexual offenses but also new filings for indecent exposure and public indecency, offenses that are not part of the SVP determination. *DCJ/ORS SOMB SVP Committee Sample Demographics*, February 2016, Table 7.

25. The SVPASI/SORS was created not only with sexual recidivism data in mind, but also as a method of determining rates of violent recidivism, including the probability of new violent offense filings within eight years following a felony sex offense conviction. The violent offense category includes homicide, robbery, kidnapping, and felony assault. The rate of violent recidivism within eight years following a felony sex offense conviction for cases filed in district court from 1999-2006 was 6%. *DCJ/ORS SOMB SVP Committee Sample Demographics*, February 2016, Table 8.

26. The inclusion of non-SVP enumerated sexual offenses and violent offenses in recidivism data means that the SORS does not reliably predict the likelihood of recidivism required by C.R.S. § 18-3-414.5, which is only interested in likelihood of recidivism for one of the enumerated offenses in C.R.S. § 18-3-414.5(1)(a)(II)(A)-(E).

27. Further, the SORS was developed using only Colorado Court cases. To better understand the impact of out-of-state information on SVP-eligibility (that is, scoring 22 or above on the SORS), a subsample of 300 cases was examined by hand to determine the impact of adding out-of-state case filings to the information required by the SORS. This additional information increased the likelihood of some individuals scoring 22 or more on the SORS. *2021 SVPASI Handbook, Sexually Violent Predator Assessment Screening Instrument*, January 2021, page 13.

28. These limitations render the SORS an unreliable tool in determining recidivism risk for one of the enumerated offenses in C.R.S. § 18-3-414.5(1)(a)(II)(A)-(E) and this Court should deviate from the recommendation of the SVPASI and enter a finding that Mr. Beagle is not a sexually violent predator.

29. On page 6 of the Colorado Sexually Violent Predator Assessment Screening Instrument (SVPASI) completed in Mr. Beagle's case and included in the PSI, Mr. Beagle was marked as having 17 "total number of adult cases filed."

30. The total number of adult cases filed include sex or non-sex misdemeanor or felony charges regardless of conviction. In recalculating the score using Mr. Beagle's criminal history in the PSI, counsel calculated 10 filed Colorado misdemeanor and felony cases.

31. The instrument was developed solely on Colorado data so Mr. Beagle should be scored solely on Colorado data too as the instrument is not empirically valid given that the development sample was done with Colorado data. Without Mr. Beagle's out of state convictions, it does not appear that Mr. Beagle would qualify as SVP.

WHEREFORE, based on the foregoing, Mr. Beagle requests that this Court make a finding that Mr. Beagle is not a Sexually Violent Predator as defined in C.R.S. § 18-3-414.5.

Respectfully submitted,

MEGAN A. RING
COLORADO STATE PUBLIC DEFENDER

Lauren Parsons

Lauren Parsons, #48706
Deputy State Public Defender

Certificate of Service
I certify that on February 21, 2022, a true and correct copy of the foregoing document was served on ICCES on all parties who appear of record and have entered their appearance herein accordingly to ICCES.

Lauren Parsons

APPENDIX F

West's Colorado Revised Statutes Annotated
Title 18. Criminal Code (Refs & Annos)
Article 3. Offenses Against the Person (Refs & Annos)
Part 4. Unlawful Sexual Behavior (Refs & Annos)

C.R.S.A. § 18-3-414.5

§ 18-3-414.5. Sexually violent predators--assessment--annual report--definitions

Effective: October 1, 2021
Currentness

(1) As used in this section, unless the context otherwise requires:

(a) "Sexually violent predator" means an offender:

(I) Who is eighteen years of age or older as of the date the offense is committed or who is less than eighteen years of age as of the date the offense is committed but is tried as an adult pursuant to section 19-2.5-801 or 19-2.5-802;

(II) Who has been convicted on or after July 1, 1999, of one of the following offenses, or of an attempt, solicitation, or conspiracy to commit one of the following offenses, committed on or after July 1, 1997:

(A) Sexual assault, in violation of section 18-3-402 or sexual assault in the first degree, in violation of section 18-3-402, as it existed prior to July 1, 2000;

(B) Sexual assault in the second degree, in violation of section 18-3-403, as it existed prior to July 1, 2000;

(C) Unlawful sexual contact, in violation of section 18-3-404(1.5) or (2) or sexual assault in the third degree, in violation of section 18-3-404(1.5) or (2), as it existed prior to July 1, 2000;

(D) Sexual assault on a child, in violation of section 18-3-405; or

(E) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3;

(III) Whose victim was a stranger to the offender or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and

(IV) Who, based upon the results of a risk assessment screening instrument developed by the division of criminal justice in consultation with and approved by the sex offender management board established pursuant to section 16-11.7-103(1), C.R.S., is likely to subsequently commit one or more of the offenses specified in subparagraph (II) of this paragraph (a) under the circumstances described in subparagraph (III) of this paragraph (a).

(b) "Convicted" includes having received a verdict of guilty by a judge or jury, having pleaded guilty or nolo contendere, or having received a deferred judgment and sentence.

(2) When a defendant is convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, the probation department shall, in coordination with the evaluator completing the mental health sex offense specific evaluation, complete the sexually violent predator risk assessment, unless the evaluation and assessment have been completed within the six months prior to the conviction or the defendant has been previously designated a sexually violent predator. Based on the results of the assessment, the court shall make specific findings of fact and enter an order concerning whether the defendant is a sexually violent predator. If the defendant is found to be a sexually violent predator, the defendant shall be required to register pursuant to the provisions of section 16-22-108, C.R.S., and shall be subject to community notification pursuant to part 9 of article 13 of title 16, C.R.S. If the department of corrections receives a mittimus that indicates that the court did not make a specific finding of fact or enter an order regarding whether the defendant is a sexually violent predator, the department shall immediately notify the court and, if necessary, return the defendant to the custody of the sheriff for delivery to the court, and the court shall make a finding or enter an order regarding whether the defendant is a sexually violent predator; except that this provision shall not apply if the court was not required to enter the order when imposing the original sentence in the case.

(3) When considering release on parole or discharge for an offender who was convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, if there has been no previous court order, the parole board shall make specific findings concerning whether the offender is a sexually violent predator, based on the results of a sexually violent predator assessment. If no previous assessment has been completed, the parole board shall order the department of corrections to complete a sexually violent predator assessment. If the parole board finds that the offender is a sexually violent predator, the offender shall be required to register pursuant to the provisions of section 16-22-108, C.R.S., and shall be subject to community notification pursuant to part 9 of article 13 of title 16, C.R.S.

(4) Notwithstanding section 24-1-136(11)(a)(I), on or before January 15, 2008, and on or before January 15 each year thereafter, the judicial department and the department of corrections shall jointly submit to the division of criminal justice in the department of public safety and to the governor a report specifying the following information:

(a) The number of offenders evaluated pursuant to this section in the preceding twelve months;

(b) The number of sexually violent predators identified pursuant to this section in the preceding twelve months;

(c) The total number of sexually violent predators in the custody of the department of corrections at the time of the report, specifying those incarcerated, those housed in community corrections, and those on parole, including the level of supervision for each sexually violent predator on parole;

(d) The length of the sentence imposed on each sexually violent predator in the custody of the department of corrections at the time of the report;

(e) The number of sexually violent predators discharged from parole during the preceding twelve months;

(f) The total number of sexually violent predators on probation at the time of the report and the level of supervision of each sexually violent predator on probation; and

(g) The number of sexually violent predators discharged from probation during the preceding twelve months.

Credits

Added by Laws 1997, S.B.97-84, § 10, eff. July 1, 1997. Amended by Laws 1998, Ch. 139, § 2, eff. April 21, 1998; Laws 1999, Ch. 286, § 9, eff. July 1, 1999; Laws 2000, Ch. 171, § 31, eff. July 1, 2000; Laws 2001, Ch. 199, § 4, eff. May 30, 2001; Laws 2002, Ch. 297, § 22, eff. July 1, 2002; Laws 2006, Ch. 288, § 8, eff. May 30, 2006; Laws 2007, Ch. 58, § 1, eff. March 26, 2007; Laws 2008, Ch. 73, § 1, eff. March 26, 2008; Laws 2017, Ch. 92, § 10, eff. Aug. 9, 2017; Laws 2017, Ch. 171, § 7, eff. April 28, 2017; Laws 2021, Ch. 136 (S.B. 21-059), § 47, eff. Oct. 1, 2021.

C. R. S. A. § 18-3-414.5, CO ST § 18-3-414.5
Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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APPENDIX G

West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Offenders--Registration
Article 22. Colorado Sex Offender Registration Act (Refs & Annos)

C.R.S.A. § 16-22-105

§ 16-22-105. Notice--requirements--residence--presumption

Currentness

(1) Any person who is required to register pursuant to section 16-22-103 shall receive notice of the duty to register as provided in section 16-22-106 or 16-22-107, whichever is applicable. Such notice shall inform the person of the duty to register, in the manner provided in section 16-22-108, with the local law enforcement agency of each jurisdiction in which the person resides. The notice shall inform the person that he or she has a duty to register with local law enforcement agencies in any state or other jurisdiction to which the person may move and that the CBI shall notify the agency responsible for registration in the new state as provided in section 16-22-108(4). The notice shall also inform the person that, at the time the person registers, he or she must provide his or her date of birth, a current photograph, and a complete set of fingerprints.

(2) Failure of any person to sign the notice of duty to register, as required in sections 16-22-106 and 16-22-107, shall not constitute a defense to the offense of failure to register as a sex offender if there is evidence that the person had actual notice of the duty to register.

(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 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 fourteen days in any thirty-day period shall constitute the establishment of residence.

Credits
Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2004, Ch. 297, § 4, eff. May 27, 2004.

C. R. S. A. § 16-22-105, CO ST § 16-22-105
Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Offenders--Registration
Article 22. Colorado Sex Offender Registration Act (Refs & Annos)

C.R.S.A. § 16-22-108

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

Effective: July 1, 2026
Currentness

(1)(a)(I) 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. A local law enforcement agency shall accept the registration of a person who lacks a fixed residence; except that the law enforcement agency is not required to accept the person's registration if it includes a residence or location that would violate state law or local ordinance. If the residence or location with which the person attempts to register constitutes such a violation, the law enforcement agency shall so advise the person and give the person an opportunity to secure an alternate location within five days.

(II) Each person who is required to register pursuant to section 16-22-103 shall initially register or, if sentenced on or after 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. The person shall register with the local law enforcement agency during business hours by completing a standardized registration form provided to the 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. After the initial registration, the local law enforcement agency may waive the requirement that the person reregister in person if the registrant suffers from a chronic physical or intellectual disability that substantially limits the person's ability to function independently and participate in major life activities to the extent that it is a severe hardship to reregister in person and there is a medical record of such disability. If the law enforcement agency waives the requirement to reregister in person, the law enforcement agency shall reregister the person after verifying the person's current address with the person and at least one other reliable source which may include: His or her caregiver, his or her family, the facility where the person resides, or another source of verification satisfactory to the law enforcement agency. The law enforcement agency shall provide verification of the waiver, by the submission of a form developed by the CBI, to the CBI and any other law enforcement agency with which the registrant is required to register. If the law enforcement agency issues such a waiver, every three years the agency must determine whether the registrant still meets the waiver requirements and reauthorize the waiver. If the law enforcement agency issues a waiver or reauthorizes the waiver, the law enforcement agency shall also notify the victim of the offense for which the petitioner is required to register, if the victim of the offense has requested notice and provided contact information. 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 within five business days before or after the person's first birthday following initial registration and annually within five business days before or after the person's birthday thereafter. Such person shall reregister pursuant to this paragraph (b) with the local law enforcement agency of each jurisdiction in which the person resides within five business days before or after his or her birthday, in the manner provided in paragraph (a) of this subsection (1).

(c) Each person who is required to register pursuant to section 16-22-103 and who establishes an additional residence shall, within five business days after establishing an additional residence in any city, town, county, or city and county within Colorado, register with the local law enforcement agency of the jurisdiction in which he or she establishes the additional residence. The person shall register in said jurisdiction in the manner provided in paragraph (a) of this subsection (1) and shall reregister as provided in paragraph (b) of this subsection (1) or paragraph (d) of this subsection (1), whichever is applicable, in said jurisdiction so long as the person resides in said jurisdiction. For purposes of this paragraph (c), "additional residence" shall include, when the person's residence is a trailer or motor home, an address at which the person's trailer or motor home is lawfully located.

(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 subsection (1)(d)(II) of this section 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 subsection (1)(d)(II) of this section, the person's duty to register may discontinue as provided in section 16-22-113(1)(d). In addition to registering as required in subsection (1)(a) of this section, the person shall reregister within five business days before or after the date that is three months after the date on which the person was released from incarceration for commission of the offense requiring registration or, if the person was not incarcerated, after the date on which he or she received notice of the duty to register. The person shall register within five business days before or after that date every three months thereafter until the person's birthday. The person shall reregister within five business days before or after his or her next birthday and shall reregister within five business days before or after that date every three months thereafter. The person shall reregister pursuant to this subsection (1)(d) with the local law enforcement agency of each jurisdiction in which the person resides or in any jurisdiction if the person lacks a fixed residence on the reregistration date, in the manner provided in subsection (1)(a) of this section.

(I.5)(A) A person convicted as an adult 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 subsection (1)(d)(I) of this section, so long as the person is a temporary or permanent resident of Colorado.

(B) A person convicted as an adult 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 subsection (1)(d)(I) of this section if the conviction occurred in Colorado, is required to register as provided in subsection (1)(d)(I) of this section, 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

(B) Sexual assault on a child in violation of section 18-3-405, C.R.S.; or

(C) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.; or

(D) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.; or

(E) Incest, in violation of section 18-6-301, C.R.S.; or

(F) Aggravated incest, in violation of section 18-6-302, C.R.S.

(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.

(2) Persons who reside within the corporate limits of any city, town, or city and county shall register at the office of the chief law enforcement officer of such city, town, or city and county; except that, if there is no chief law enforcement officer of the city, town, or city and county in which a person resides, the person shall register at the office of the county sheriff of the county in which the person resides. Persons who reside outside of the corporate limits of any city, town, or city and county shall register at the office of the county sheriff of the county where such person resides.

(2.5)(a) Any person who is required to register pursuant to section 16-22-103 and who has been convicted of a child sex crime shall be required to register all e-mail addresses, instant-messaging identities, or chat room identities prior to using the address or identity. The entity that accepts the registration of a person required to register all e-mail addresses shall make a reasonable effort to verify all e-mail addresses provided by the person.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2.5), a person shall not be required to register an employment e-mail address if:

(I) The person's employer provided the e-mail address for use primarily in the course of the person's employment;

(II) The e-mail address identifies the employer by name, initials, or other commonly recognized identifier; and

(III) The person required to register is not an owner or operator of the employing entity that provided the e-mail address.

(c) For purposes of this section, "child sex crime" means:

(I) Sexual assault on a child, as described in section 18-3-405; sexual assault on a child by one in a position of trust, as described in section 18-3-405.3; unlawful sexual contact, as described in section 18-3-404(1.5); enticement of a child, as described in section 18-3-305; aggravated incest, as described in section 18-6-302(1)(b); human trafficking of a minor for sexual servitude, as described in section 18-3-504(2); sexual exploitation of children, as described in section 18-6-403; procurement of a child for sexual exploitation, as described in section 18-6-404; soliciting for commercial sexual activity with a child, as described in section 18-7-402; pandering of a child, as described in section 18-7-403; procurement of a child, as described in section 18-7-403.5; keeping a place of commercial sexual activity with a child, as described in section 18-7-404; pimping of a child, as described in section 18-7-405; inducement of commercial sexual activity with a child, as described in section 18-7-405.5; engaging in commercial sexual activity with a child, as described in section 18-7-406; internet luring of a child, as described in section 18-3-306; internet sexual exploitation of a child, as described in section 18-3-405.4; wholesale promotion of obscenity to a minor, as described in section 18-7-102(1.5); promotion of obscenity to a minor, as described in section 18-7-102(2.5); sexual assault, as described in section 18-3-402(1)(d) and (1)(e); sexual assault in the second degree as it existed prior to July 1, 2000, as described in section 18-3-403(1)(e) and (1)(e.5);

(II) Each of the following offenses, as they existed prior to July 1, 2026: Soliciting for child prostitution, in violation of section 18-7-402; keeping a place of child prostitution, in violation of section 18-7-404; inducement of child prostitution, in violation of section 18-7-405.5; or patronizing a prostituted child, in violation of section 18-7-406; or

(III) Criminal attempt, conspiracy, or solicitation to commit any of the acts specified in this subsection (2.5)(c).

(d) The entity that accepts the registration of a person required to register all e-mail addresses, instant-messaging identities, or chat room identities pursuant to paragraph (a) of this subsection (2.5) shall require the person to sign a statement that the e-mail addresses, instant-messaging identities, or chat room identities provided on the registration form are e-mail addresses, instant-messaging identities, or chat room identities that the person has the authority to use. The statement shall also state that providing false information related to the person's e-mail addresses, instant-messaging identities, or chat room identities may constitute a misdemeanor or felony criminal offense. This signed statement constitutes a reasonable effort to verify all e-mail addresses provided by the person as required by paragraph (a) of this subsection (2.5), but does not preclude additional verification efforts.

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

(a) Changes such person's address, regardless of whether such person has moved to a new address within the jurisdiction of the law enforcement agency with which such person previously registered;

(a.5) Changes the address at which a vehicle, trailer, or motor home is located, if the vehicle, trailer, or motor home is the person's place of residence, regardless of whether the new address is within the jurisdiction of the law enforcement agency with which such person previously registered;

(b) Legally changes such person's name;

(c) Establishes an additional residence in another jurisdiction or an additional residence in the same jurisdiction;

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

(e) Becomes enrolled or changes enrollment in an institution of postsecondary education, or changes the location of enrollment;

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

(g) Changes his or her e-mail address, instant-messaging identity, or chat room identity, if the person is required to register that information pursuant to subsection (2.5) of this section. The person shall register the e-mail address, instant-messaging identity, or chat room identity prior to using it.

(h) Ceases to lack a fixed residence and establishes a residence; or

(i) Ceases to reside at an address and lacks a fixed residence.

(4)(a)(I) Any time a person who is required to register pursuant to section 16-22-103 ceases to reside at an address, the person shall register with the local law enforcement agency for his or her new address and include the address at which the person will no longer reside and all addresses at which the person will reside. The person shall file the new registration form within five business days after ceasing to reside at an address. The local law enforcement agency that receives the new registration form shall inform the previous jurisdiction of the cancellation of that registration and shall electronically notify the CBI of the registration cancellation.

(II) Any time a person who is required to register pursuant to section 16-22-103 ceases to reside at an address and moves to another state, the person shall notify the local law enforcement agency of the jurisdiction in which said address is located by completing a written registration cancellation form, available from the local law enforcement agency. At a minimum, the registration cancellation form shall indicate the address at which the person will no longer reside and all addresses at which the person will reside. The person shall file the registration cancellation form within five business days after ceasing to reside at an address. A local law enforcement agency that receives a registration cancellation form shall electronically notify the CBI of the registration cancellation. If the person moves to another state, the CBI shall promptly notify the agency responsible for registration in the other state.

(b) If a person fails to submit the new registration form or registration cancellation form as required in paragraph (a) of this subsection (4) and the address at which the person is no longer residing is a group facility, officials at such facility may provide information concerning the person's cessation of residency to the local law enforcement agency of the jurisdiction in which the address is located. If the person is a juvenile or developmentally disabled and fails to submit the registration cancellation form as required in paragraph (a) of this subsection (4) and the address at which the person is no longer residing is the residence of his or her parent or legal guardian, the person's parent or legal guardian may provide information concerning the person's cessation of residency to the local law enforcement agency of the jurisdiction in which the address is located. Any law enforcement agency that receives such information shall reflect in its records that the person no longer resides at said group facility or the parent's or legal guardian's residence and shall transmit such information to the CBI. Provision of information by a group facility or a person's parent or legal guardian pursuant to this paragraph (b) shall not constitute a defense to a charge of failure to register as a sex offender.

(5) During the initial registration process for a temporary resident, the local law enforcement agency with which the temporary resident is registering shall 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.

(7)(a) A local law enforcement agency may establish a registration fee to be paid by persons registering and reregistering annually or quarterly 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 but shall not exceed seventy-five dollars for the initial registration with the local law enforcement agency and twenty-five dollars for any subsequent annual or quarterly registration.

(b) The local law enforcement agency may waive the fee for an indigent person. For all other persons, the local law enforcement agency may pursue payment of the fee through a civil collection process or any other lawful means if the person is unable to pay at the time of registration. A local law enforcement agency shall accept a timely registration in all circumstances even if the person is unable to pay the fee at the time of registration.

(c) A local law enforcement agency may not charge a fee to a person who provides an update to his or her information pursuant to subsection (3) of this section.

(8)(a) If a person whose duty to register has automatically terminated pursuant to section 16-22-103(4) either attempts to register or inquires with local law enforcement as to whether the duty to register has automatically terminated, local law enforcement shall advise the person that the person's duty to register terminated, remove the person from any local law enforcement registry, and notify the CBI that the person's duty to register has terminated.

(b) A local law enforcement agency or the CBI may establish a fee to determine whether a person's duty to register has terminated pursuant to section 16-22-103(4). The amount of the fee must reflect the actual direct costs incurred but must not exceed fifteen dollars. The fee may be waived for an indigent person.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2002, Ch. 299, § 3, eff. July 1, 2002; Laws 2004, Ch. 297, §§ 8, 9 eff. May 27, 2004; Laws 2007, Ch. 54, §§ 2, 3, eff. March 26, 2007; Laws 2007, Ch. 382, § 1, 2, eff. July 1, 2007; Laws 2010, Ch. 156, § 7, eff. April 21, 2010; Laws 2011, Ch. 224, § 6, eff. May 27, 2011; Laws 2012, Ch. 220, § 4, eff. July 1, 2012; Laws 2014, Ch. 282, § 14, eff. July 1, 2014; Laws 2018, Ch. 143, § 2, eff. Aug. 8, 2018; Laws 2021, Ch. 320 (H.B. 21-1064), § 3, eff. Sept. 1, 2021; Laws 2026, Ch. 335 (S.B. 26-015), § 17, eff. July 1, 2026.

C. R. S. A. § 16-22-108, CO ST § 16-22-108

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Offenders--Registration
Article 22. Colorado Sex Offender Registration Act (Refs & Annos)

C.R.S.A. § 16-22-109

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

Effective: September 1, 2021
Currentness

(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 the standardized forms to the courts, probation departments, community corrections programs, the department of corrections, the department of human services, and local law enforcement agencies. The standardized forms may be provided in electronic form. The 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 institution of postsecondary education at which the person may be physically located;

(a.3) If the person's place of residence is a trailer or motor home, the address at which the trailer or motor home is lawfully located and the vehicle identification number, license tag number, registration number, and description, including color scheme, of the trailer or motor home;

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

(a.7) If the person enrolls or is enrolled in an institution of a postsecondary education, all addresses and locations of the institution of postsecondary education at which the person attends classes or otherwise participates in required activities;

(a.9) If a person lacks a fixed residence, any public or private locations where the person may be found or habitually sleeps, which information may include, but need not be limited to, cross-streets, intersections, directions to or identifiable landmarks of the locations, or any other information necessary to accurately identify the locations;

(b) All names used at any time by the person required to register, including both aliases and legal names;

(c) For any person who is a temporary resident of the state, the person's address in his or her state of permanent residence and the person's place of employment in this state or the educational institution in which he or she is enrolled in this state and, if the temporary resident of the state is enrolled in, employed by, or volunteers at an institution of postsecondary education, all addresses and locations of the institution of postsecondary education at which the temporary resident attends classes or otherwise participates in required activities or works or performs volunteer activities;

(d) The name, address, and location of any institution of postsecondary education where the person required to register is enrolled;

(e) The name, address, and location of any institution of postsecondary education where the person required to register volunteers;

(f) The vehicle identification number, license tag number, registration number, and description, including color scheme, of any motor vehicle owned or leased by the person;

(g) All e-mail addresses, instant-messaging identities, and chat room identities to be used by the person if the person is required to register that information pursuant to section 16-22-108(2.5).

(2) The standardized forms prepared by the CBI pursuant to this section, including electronic versions of said forms, shall be admissible in court without exclusion on hearsay or other evidentiary grounds and shall be self-authenticating as a public record pursuant to the Colorado rules of evidence.

(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)(a) 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.

(b) If a person registers as “lacks a fixed residence”, verification of the location or locations reported by the person shall be accomplished by the self-verification enhanced reporting process as described in paragraph (c) of this subsection (3.5). A local law enforcement agency shall not be required to verify the physical location of a person who is required to comply with the self-verification enhanced reporting process.

(c)(I) In addition to any other requirements pursuant to this article, a person who is subject to annual registration and who lacks a fixed residence shall, at least every three months, report to the local law enforcement agency in whose jurisdiction or jurisdictions the person is registered for the self-verification enhancement reporting of the location or locations where the person remains without a fixed residence. The self-verification process shall be accomplished consistent with any time schedule established by the local jurisdiction, which may include a time schedule that is within five business days before or after the person's birthday. The person shall be required to verify his or her location or locations and verify any and all information required to be reported pursuant to this section.

(II) In addition to any other requirements pursuant to this article, a person who is subject to quarterly registration or registration every three months and who lacks a fixed residence shall, at least every month, report to each local law enforcement agency in whose jurisdiction the person is registered for the self-verification enhanced reporting of the location or locations where the person remains without a fixed residence. The self-verification process shall be accomplished consistent with any time schedule established by the local jurisdiction, which may include a time schedule that is within five business days before or after the person's birthday. The person shall be required to verify his or her location or locations and verify any and all information required to be reported pursuant to this section.

(III) A person required to register pursuant to this article who lacks a fixed residence and who fails to comply with the provisions of subparagraphs (I) and (II) of this paragraph (c) is subject to prosecution for the crime of failure to verify location as defined in section 18-3-412.6, C.R.S.

(d) Beginning on July 1, 2012, and ending January 1, 2015, the Colorado bureau of investigation and each local law enforcement agency, subject to available resources, shall report every six months to the department of public safety the number of persons who registered without a fixed residence. The department may require additional information to be reported. By March 31, 2015, the department shall assess the effectiveness of the registration for offenders who lack a fixed residence.

(4) The forms completed by persons required to register pursuant to this article 22 are confidential and are not open to inspection by the public or any person other than law enforcement personnel, except as provided in sections 16-22-110(6), 16-22-111, 16-22-112, and 25-1-124.5.

(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.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2002, Ch. 299, § 4, eff. July 1, 2002; Laws 2003, Ch. 76, § 4, eff. March 25, 2003; Laws 2004, Ch. 297, §§ 10, 11, eff. May 27, 2004; Laws 2006, Ch. 219, § 2, eff. July 1, 2006; Laws 2007, Ch. 54, § 1, eff. March 26, 2007; Laws 2007, Ch. 382, § 3, eff. July 1, 2007; Laws 2012, Ch. 220, § 5, eff. July 1, 2012; Laws 2021, Ch. 320 (H.B. 21-1064), § 4, eff. Sept. 1, 2021.

C. R. S. A. § 16-22-109, CO ST § 16-22-109

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Offenders--Registration
Article 22. Colorado Sex Offender Registration Act (Refs & Annos)

C.R.S.A. § 16-22-110

§ 16-22-110. Colorado sex offender registry--creation--maintenance--release of information--data collection

Effective: September 1, 2021
Currentness

(1) The director of the Colorado bureau of investigation shall establish a statewide central registry of persons required to register pursuant to section 16-8-115 or 16-8-118 or as a condition of parole or pursuant to this article, to be known as the Colorado sex offender registry. The CBI shall create and maintain the sex offender registry as provided in this section. In addition, the CBI shall be the official custodian of all registration forms completed pursuant to this article and other documents associated with sex offender registration created pursuant to this article.

(2) The sex offender registry shall provide, at a minimum, the following information to all criminal justice agencies with regard to registered persons:

(a) Identification of a person's registration status;

(b) A person's date of birth;

(c) Descriptions of the offenses of unlawful sexual behavior of which a person has been convicted;

(d) Identification of persons who are identified as sexually violent predators;

(e) Notification to local law enforcement agencies when a person who is required to register pursuant to section 16-22-103 fails to register, when a person is required to reregister as provided in section 16-22-108, or when a person reregisters with another jurisdiction in accordance with the provisions of section 16-22-108;

(f) Specification of modus operandi information concerning any person who is required to register pursuant to section 16-22-103.

(3)(a) In addition to the sex offender registry, the CBI shall maintain one or more interactive database 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. 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.

(b) The Colorado integrated criminal justice information system established pursuant to article 20.5 of this title shall be used to facilitate the exchange of information among agencies as required in this subsection (3) whenever practicable.

(3.5) The Colorado bureau of investigation shall develop an interactive database within the sex offender registry to provide, at a minimum, the following information to all criminal justice agencies in whose jurisdictions an institution of postsecondary education is located:

(a) Identification of all persons required to register pursuant to section 16-22-103 who volunteer or are employed or enrolled at an institution of postsecondary education and the institution at which each such person volunteers, is employed, or is enrolled;

(b) Identification of all persons who are sexually violent predators who volunteer or are employed or enrolled at an institution of postsecondary education and the institution at which each such person volunteers, is employed, or is enrolled.

(4) Upon development of the interactive databases pursuant to subsection (3) of this section, personnel in the judicial department, the department of corrections, and the department of human services shall be responsible for entering and maintaining in the databases the information specified in subsection (2) of this section for persons in those departments' legal or physical custody. Each local law enforcement agency shall be responsible for entering and maintaining in the databases the information for persons registered with the agency who are not in the physical or legal custody of the judicial department, the department of corrections, or the department of human services.

(5) The CBI, upon receipt of fingerprints and conviction data concerning a person convicted of unlawful sexual behavior, shall transmit promptly such fingerprints and conviction data to the federal bureau of investigation.

(6)(a) The general assembly 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, 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 record check pursuant to part 3 of article 72 of title 24, unless the person who is the subject of the criminal history record check was required to register solely because the person was adjudicated or received a disposition as a juvenile, 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. If such person is on the sex offender registry solely as a result of being adjudicated or receiving a disposition as a juvenile, the CBI shall not release such information to a person other than law enforcement, probation and parole personnel, the division of child welfare, the division of youth services, or the victim, as defined in section 24-4.1-302 (5).

(c) A person may request from the CBI a list of persons on the sex offender registry. The list must not include persons who are on the sex offender registry solely for having been adjudicated or received dispositions as juveniles.

(d) (Deleted by amendment, L. 2005, p. 611, § 1, effective May 27, 2005.)

(e) Any person requesting information pursuant to subsection (6)(c) of this section shall show proper identification.

(f) If information is released pursuant to this subsection (6), it must, at a minimum, 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; the offense that led to the registration requirement; and the date of the offense resulting in the registrant being required to register pursuant to this article 22. Information concerning victims must not be released pursuant to this section.

(g) Notwithstanding this subsection (6) to the contrary, the CBI may release information, as described in subsection (6)(i) of this section, about the person registered as a result of being adjudicated or receiving a disposition as a juvenile if a person, other than the victim, submits a request to the CBI for the sex offender registry record of a named person who was adjudicated or received a disposition as a juvenile, and the requesting person affirms in writing that the requested record shall not be:

(I) Placed in publication or posted to a website;

(II) Used for the purpose of obtaining a pecuniary gain or financial benefit for any person or entity; or

(III) Used or disseminated in any manner with the intent to harass, intimidate, coerce, or cause serious emotional distress to any person, including the named person.

(h) In addition to the written affirmation required by subsection (6)(g) of this section, the person requesting information shall affirm in writing that he or she has a need for the sex offender information concerning the person who was adjudicated or received a disposition as a juvenile and describe that need in writing.

(i) Upon receipt of the written affirmations required by subsections (6)(g) and (6)(h) of this section, the CBI shall release to the requesting person the sex offender registry record that is limited to include only the person's registration status, full name, aliases, date of birth, and current address or addresses; a photograph of the registrant, if requested and readily available; the offense that led to the registration; and the date of the offense as such information concerns the person who was adjudicated or received a disposition as a juvenile. Information concerning victims must not be released pursuant to this section.

(j) Nothing in this subsection (6) limits the victim's access to information pursuant to section 24-4.1-302.5.

(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.

(8) 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.

(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.

(10) On or before July 1, 2022, and every July 1 thereafter, the CBI shall prepare a report that details the number of requests for sex offender registration information for juveniles received annually pursuant to subsection (6) of this section as well as the number of times such information was released. The CBI shall include the report as a part of its presentation to its committee of reference at a hearing held pursuant to section 2-7-203 of the “State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act”.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2002, Ch. 158, § 5, eff. July 1, 2002; Laws 2002, Ch. 299, § 5, eff. July 1, 2002; Laws 2004, Ch. 297, § 12, eff. May 27, 2004; Laws 2005, Ch. 174, § 1, eff. May 27, 2005; Laws 2021, Ch. 320 (H.B. 21-1064), § 5, eff. Sept. 1, 2021.

C. R. S. A. § 16-22-110, CO ST § 16-22-110

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Offenders--Registration
Article 22. Colorado Sex Offender Registration Act (Refs & Annos)

C.R.S.A. § 16-22-111

§ 16-22-111. Internet posting of sex offenders--procedure

Effective: September 1, 2021
Currentness

(1) The CBI shall post a link on the state of Colorado home page 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 must 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 must specifically exclude any reference to any victims of the offenses. The list must specifically exclude persons who are required to register solely because they were adjudicated or received dispositions as juveniles but must include the following persons:

(a) Any person who is a sexually violent predator;

(b) Any person sentenced as or found to be a sexually violent predator under the laws of another state or jurisdiction;

(c) Any person who is required to register pursuant to section 16-22-103 and who has been convicted as an adult of two or more of the following offenses:

(I) A felony offense involving unlawful sexual behavior; or

(II) A crime of violence as defined in section 18-1.3-406, C.R.S.; and

(d) Any person who is required to register pursuant to section 16-22-103 because the person was convicted of a felony as an adult and who fails to register as required by section 16-22-108.

(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 home page 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.

(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.

(3) The internet posting required by this section shall be in addition to any other release of information authorized pursuant to this article or pursuant to part 9 of article 13 of this title, or any other provision of law.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2002, Ch. 318, § 394, eff. Oct. 1, 2002; Laws 2004, Ch. 297, § 13, eff. May 27, 2004; Laws 2005, Ch. 174, § 3, eff. May 27, 2005; Laws 2021, Ch. 320 (H.B. 21-1064), § 6, eff. Sept. 1, 2021.

C. R. S. A. § 16-22-111, CO ST § 16-22-111

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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C.R.S.A. § 16-22-112

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

Effective: September 1, 2021
Currentness

(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 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 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, except for a person who is required to register solely because the person was adjudicated or received a disposition as a juvenile, registered with the local law enforcement agency pursuant to this article 22 to any person residing within the local law enforcement agency's jurisdiction. In addition, the local law enforcement agency may post the information specified in subsection (2)(b) of this section 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; or

(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, C.R.S.;

(E) Indecent exposure as described in section 18-7-302, C.R.S.; or

(F) Sexual conduct in a correctional institution as described in section 18-7-701, C.R.S.

(III) Repealed by Laws 2021, Ch. 320 (H.B. 21-1064), § 7, eff. Sept. 1, 2021.

(IV) Repealed by Laws 2021, Ch. 320 (H.B. 21-1064), § 7, eff. Sept. 1, 2021.

(3)(a) Deleted by Laws 2005, Ch. 174, § 2, eff. May 27, 2005.

(b) At its discretion, a local law enforcement agency may release information regarding any person, except for a person who is required to register solely because the person was adjudicated or received a disposition as a juvenile, registered with the local law enforcement agency pursuant to this article 22 to any person who does not reside within the local law enforcement agency's jurisdiction or may post the information specified in subsection (2)(b) of this section 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) Deleted by Laws 2005, Ch. 174, § 2, eff. May 27, 2005.

(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.

(e) Deleted by Laws 2007, Ch. 177, § 1, eff. April 26, 2007.

(3.5) To assist members of the public in protecting themselves from persons who commit offenses involving unlawful sexual behavior, a local law enforcement agency that chooses to post sex offender registration information on its website shall either post educational information concerning protection from sex offenders on its website or provide a link to the educational information included on the CBI website maintained pursuant to section 16-22-111. A local law enforcement agency that posts the educational information shall work with the sex offender management board created pursuant to section 16-11.7-103 and sexual assault victims' advocacy groups in preparing the educational information.

(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.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2004, Ch. 297, § 14, eff. May 27, 2004; Laws 2005, Ch. 174, § 2, eff. May 27, 2005; Laws 2006, Ch. 122, § 2, eff. April 13, 2006; Laws 2006, Ch. 359, § 2, eff. July 1, 2006; Laws 2007, Ch. 177, § 1, eff. April 26, 2007; Laws 2010, Ch. 262, § 3, eff. July 1, 2010; Laws 2021, Ch. 320 (H.B. 21-1064), § 7, eff. Sept. 1, 2021.

C. R. S. A. § 16-22-112, CO ST § 16-22-112

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C.R.S.A. § 16-22-113

§ 16-22-113. Petition for removal from sex offender registry--mandatory hearing for discontinuation and removal

Effective: October 1, 2021
Currentness

(1) Except as required 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 court that issued the order of judgment for the conviction that requires the person to register for an order to discontinue the requirement for such registration or internet posting, or both, as follows:

(a) Except as otherwise provided in paragraphs (d), (e), and (f) of this subsection (1), if the offense that required such person to register constituted or would constitute a class 1, 2, or 3 felony, after a period of twenty years from the date of such person's discharge from the department of corrections, if such person was sentenced to incarceration, or discharge from the department of human services, if such person was committed, or final release from the jurisdiction of the court for such offense, if such person has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior;

(a.5) Except as otherwise provided in subsections (1)(d), (1)(e), and (1)(f) of this section, if the offense that required the person to register constituted human trafficking for sexual servitude pursuant to section 18-3-504(1)(a), upon completion of the person's sentence and his or her discharge from the department of corrections, if he or she was sentenced to incarceration, or discharge from the department of human services, if he or she was committed to such department, or final release from the jurisdiction of the court for the offense, if the person has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior, the person may file a petition with the court pursuant to subsection (2) of this section. Notwithstanding any other information obtained by the court during the hearing of the petition, a court shall not issue an order discontinuing the petitioner's duty to register unless the petitioner has at least established by a preponderance of the evidence that at the time he or she committed the offense of human trafficking for sexual servitude, he or she had been trafficked by another person, as described in section 18-3-503 or 18-3-504, for the purpose of committing the offense. Failure to make the required showing pursuant to this subsection (1)(a.5) requires the person to comply with the provisions of subsection (1)(a) of this section for any subsequent petition to discontinue the person's duty to register.

(b) Except as otherwise provided in paragraphs (d), (e), and (f) of this subsection (1), if the offense that required such person to register constituted or would constitute a class 4, 5, or 6 felony or the class 1 misdemeanor of unlawful sexual contact, as described in section 18-3-404, C.R.S., or sexual assault in the third degree as described in section 18-3-404, C.R.S., as it existed prior to July 1, 2000, after a period of ten years from the date of such person's discharge from the department of corrections, if such person was sentenced to incarceration, or discharge from the department of human services, if such person was committed, or final release from the jurisdiction of the court for such offense, if such person has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior;

(c) Except as otherwise provided in paragraphs (d), (e), and (f) of this subsection (1), if the offense that required such person to register constituted or would constitute a misdemeanor other than the class 1 misdemeanor of unlawful sexual contact, as described in section 18-3-404, C.R.S., or sexual assault in the third degree as described in section 18-3-404, C.R.S., as it existed prior to July 1, 2000, after a period of five years from the date of such person's final release from the jurisdiction of the court for such offense, if such person has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior;

(d) If the person was required to register due to being placed on a deferred judgment and sentence or a deferred adjudication for an offense involving unlawful sexual behavior, after the successful completion of the deferred judgment and sentence or deferred adjudication and dismissal of the case, if the person prior to such time has not been subsequently convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior and the court did not issue an order either continuing the duty to register or discontinuing the duty to register pursuant to paragraph (a) of subsection (1.3) of this section;

(e) Except as otherwise required by subsection (1.3)(b)(II) of this section, if the person was younger than eighteen years of age at the time of commission of the offense, after the successful completion of and discharge from a juvenile sentence or disposition, and if the person prior to such time has not been subsequently convicted as an adult of unlawful sexual behavior, or for any other offense, the underlying factual basis of which involved unlawful sexual behavior, or does not have a pending prosecution for unlawful sexual behavior as an adult or for any other offense, the underlying factual basis of which involved unlawful sexual behavior, and the court did not issue an order to either continue or discontinue the duty to register pursuant to subsection (1.3)(b) of this section. A person petitioning pursuant to this subsection (1)(e) may also petition for an order to remove the person's name from the sex offender registry. In determining whether to grant the order, the court shall consider whether the person is likely to commit a subsequent offense of or involving unlawful sexual behavior. The court shall base its determination on the following, if available: Recommendations from the person's probation or community parole officer; the person's treatment provider; the prosecuting attorney for the jurisdiction in which the person was tried; and on the recommendations included in the person's presentence investigation report. In addition, the court shall consider any written or oral testimony submitted by the victim of the offense for which the petitioner was required to register. Notwithstanding any other requirements of this subsection (1), a juvenile who files a petition pursuant to this section may file the petition with the court to which venue is transferred pursuant to section 19-2.5-104, if any.

(f) If the information about the person was required to be posted on the internet pursuant to section 16-22-111(1)(d) only for failure to register, if the person has fully complied with all registration requirements for a period of not less than one year and if the person, prior to such time, has not been subsequently convicted of unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior; except that the provisions of this paragraph (f) shall apply only to a petition to discontinue the requirement for internet posting.

(g) If a person's duty to register pursuant to this article 22 due to an adjudication or disposition as a juvenile has automatically terminated pursuant to section 16-22-103 (4), and the person's name has not already been removed from the sex offender registry by local law enforcement or the CBI, the person may petition for an order to remove the person's name from the sex offender registry. If the person has reached twenty-five years of age or seven years have passed from the date the person was required to register, whichever occurs later, and the person has not subsequently been convicted as an adult of unlawful sexual behavior, or for any other offense, the underlying factual basis of which involved unlawful sexual behavior, or does not have a pending prosecution for unlawful sexual behavior as an adult or for any other offense, the underlying factual basis of which involved unlawful sexual behavior, the court shall issue an order to remove the person's name from the sex offender registry.

(1.3)(a) If a person is eligible to petition to discontinue his or her duty to register pursuant to paragraph (d) of subsection (1) of this section, the court, at least sixty-three days before dismissing the case, shall notify each of the parties described in paragraph (a) of subsection (2) of this section, the person, and the victim of the offense for which the person was required to register, if the victim has requested notice and has provided current contact information, that the court will consider whether to order that the person may discontinue his or her duty to register when the court dismisses the case as a result of the person's successful completion of the deferred judgment and sentence or deferred adjudication. The court shall set the matter for hearing if any of the parties described in paragraph (a) of subsection (2) of this section or the victim of the offense objects or if the person requests a hearing. If the court enters an order discontinuing the person's duty to register, the person shall send a copy of the order to each local law enforcement agency with which the person is registered and to the CBI. If the victim of the offense has requested notice, the court shall notify the victim of its decision either to continue or discontinue the person's duty to register.

(b)(I) If a person adjudicated or who received a disposition as a juvenile is required to register pursuant to section 16-22-103, the court, within fourteen days of the end of the juvenile's sentence, shall notify each of the parties described in subsection (2)(a) of this section, the juvenile, and the victim of the offense for which the juvenile was required to register, if the victim has requested notice and has provided current contact information, that the court shall consider whether to order that the juvenile may discontinue the juvenile's duty to register when the court discharges the juvenile's sentence. The court shall set the matter for hearing if any district attorney or a victim of the offense objects, or if the juvenile requests a hearing. If an objection is not filed within sixty-three days after receipt of the notice, the court shall, on the sixty-fourth day or the next day the court is in session if the sixty-fourth day falls on a Saturday, Sunday, or court holiday, either issue an order, after determination that the juvenile is eligible to discontinue registration pursuant to subsection (1)(e) of this section and a review of the relevant criteria that discontinues the juvenile's duty to register, or set the matter for a hearing to determine if the juvenile's duty to register continues. At any hearing, the court shall determine whether the juvenile is eligible to discontinue registration pursuant to subsection (1)(e) of this section and, if eligible, consider the criteria in subsection (1)(e) of this section in determining whether to continue or discontinue the duty to register. If the court enters an order to discontinue the juvenile's duty to register, the court shall send a copy of the order to each local law enforcement agency with which the juvenile is registered, the juvenile parole board, and to the CBI. If the victim of the offense has requested notice, the court shall notify the victim of its decision either to continue or discontinue the juvenile's duty to register.

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

(III) If a juvenile is eligible to petition to discontinue his or her registration pursuant to paragraph (e) of subsection (1) of this section and is under the custody of the department of human services and yet to be released on parole by the juvenile parole board, the department of human services, prior to setting the matter for hearing, shall modify the juvenile's parole plan or parole hearing to acknowledge the court order or petition unless it is already incorporated in the parole plan.

(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.

(2)(a) A registrant who is eligible to petition to discontinue registration pursuant to the provisions of subsection (1) of this section must file a petition with the court of proper jurisdiction and shall provide a copy of the petition by certified mail to each of the following parties:

(I) Each law enforcement agency with which the registrant is required to register;

(II) The district attorney for the jurisdiction in which the petition to discontinue registration has been filed; and

(III) The prosecuting attorney who obtained the conviction of the registrant.

(b) Within twenty-one days after filing the petition, the petitioner shall file with the court copies of the return receipts received from each party notified and any documents supporting his or her eligibility to petition to discontinue registration. The supporting documents must include records documenting the completion of treatment if ordered by the court, when such records are available.

(c) Upon receipt of the petition, the court shall set a date for a hearing and shall notify the petitioner and the district attorney for that jurisdiction of the hearing date. The court shall also notify the victim of the offense for which the petitioner was required to register, if the victim of the offense has requested notice and provided contact information.

(d) If the district attorney or the victim objects to the registrant's petition, the district attorney shall file the objection with the court within sixty-three days after receiving the notice of the petition.

(e) If no objection is filed by the district attorney or made by the victim, the court may consider the petition without a hearing and shall grant the petition if the court finds that the petitioner has completed the sentence for which he or she was required to register; the petitioner has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying basis of which involved unlawful sexual behavior; the waiting time period described in subsection (1) of this section has expired; and the petitioner is not likely to commit a subsequent offense of or involving unlawful sexual behavior. In determining whether to grant the petition, the court shall consider any treatment records provided pursuant to subsection (2)(b) of this section, any written or oral statement of the victim of the offense for which the petitioner was required to register, and any other relevant information presented by the petitioner or district attorney.

(f) If there is objection to the petition by the district attorney or victim, the court shall conduct a hearing on the petition. The court may grant the petition if the court finds the petitioner has completed the sentence for which he or she was required to register; the petitioner has not subsequently been convicted of unlawful sexual behavior or of any other offense, the underlying basis of which involved unlawful sexual behavior; the waiting time period described in subsection (1) of this section has expired; and the petitioner is not likely to commit a subsequent offense of or involving unlawful sexual behavior. In determining whether to grant the petition, the court shall consider any treatment records provided pursuant to subsection (2)(b) of this section, any written or oral statement of the victim of the offense for which the petitioner was required to register, and any other relevant information presented by the petitioner or district attorney.

(g) If the court enters an order discontinuing registration, the petitioner shall provide a copy of the order to each local law enforcement agency with which the petitioner is registered and the CBI. The court shall also notify the victim, if the victim of the offense has requested notice and provided current contact information.

(h) On receipt of a copy of an order discontinuing a petitioner's duty to register:

(I) The CBI shall remove the petitioner's sex offender registration information from the state sex offender registry; and

(II) The local law enforcement agency shall remove the petitioner's sex offender registration information from the local sex offender registry.

(2.5)(a) Notwithstanding any provision of this section to the contrary, a registrant or his or her legal representative may file a petition to discontinue registration if the registrant suffers from a severe physical or intellectual disability to the extent that he or she is permanently incapacitated and does not present an unreasonable risk to public safety.

(b) The registrant or his or her legal representative must file a petition with the court of proper jurisdiction and shall provide a copy of the petition by certified mail to each of the following parties:

(I) Each law enforcement agency with which the registrant is required to register;

(II) The district attorney for the jurisdiction in which the petition to discontinue registration has been filed; and

(III) The prosecuting attorney who obtained the conviction of the registrant.

(c) Within twenty-one days after filing the petition, the petitioner shall file with the court copies of the return receipts received from each party notified and any documents supporting his or her eligibility to petition to discontinue registration. The supporting documents must include records documenting the completion of treatment if ordered by the court, when such records are available.

(d) Upon receipt of the petition, the court shall set a date for a hearing and shall notify the petitioner and the district attorney for that jurisdiction of the hearing date. The court shall also notify the victim of the offense for which the petitioner was required to register, if the victim of the offense has requested notice and provided contact information.

(e) If the district attorney or the victim objects to the registrant's petition, the district attorney shall file the objection with the court within sixty-three days of receiving the notice of the petition.

(f) If no objection is filed by the district attorney or made by the victim, the court may consider the petition without a hearing and shall grant the petition if the court finds the petitioner suffers from a severe physical or intellectual disability to the extent that the petitioner is permanently incapacitated, does not present an unreasonable risk to public safety, and is not likely to commit a subsequent offense of or involving unlawful sexual behavior. In determining whether to grant the petition, the court shall consider any treatment records provided pursuant to subsection (2.5)(c) of this section, any written or oral statement of the victim of the offense for which the petitioner was required to register, and any other relevant information presented by the petitioner or district attorney.

(g) If there is objection to the petition by the district attorney or victim, the court shall conduct a hearing on the petition. The court may grant the petition if the court finds the petitioner suffers from a severe physical or intellectual disability to the extent that the petitioner is permanently incapacitated, does not present an unreasonable risk to public safety, and is not likely to commit a subsequent offense of or involving unlawful sexual behavior. In determining whether to grant the petition, the court shall consider any treatment records provided pursuant to subsection (2.5)(c) of this section, any written or oral statement of the victim of the offense for which the petitioner was required to register, and any other relevant information presented by the petitioner or district attorney.

(h) If the court enters an order discontinuing registration, the petitioner shall provide a copy of the order to each local law enforcement agency with which the petitioner is registered and the CBI. The court shall also notify the victim, if the victim of the offense has requested notice and provided contact information.

(i) On receipt of a copy of an order discontinuing a petitioner's duty to register:

(I) The CBI shall remove the petitioner's sex offender registration information from the state sex offender registry; and

(II) The local law enforcement agency shall remove the petitioner's sex offender registration information from the local sex offender registry.

(3) The following persons are not eligible for relief pursuant to this section, but are subject for the remainder of their natural lives to the registration requirements specified in this article 22 or to the comparable requirements of any other jurisdictions in which they may reside:

(a) Any person who is a sexually violent predator;

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

(I) Sexual assault, in violation of section 18-3-402; or sexual assault in the first degree, in violation of section 18-3-402, as it existed prior to July 1, 2000; or sexual assault in the second degree, in violation of section 18-3-403, as it existed prior to July 1, 2000; or

(II) Sexual assault on a child, in violation of section 18-3-405, C.R.S.; or

(III) Sexual assault on a child by one in a position of trust, in violation of section 18-3-405.3, C.R.S.; or

(IV) Sexual assault on a client by a psychotherapist, in violation of section 18-3-405.5, C.R.S.; or

(V) Incest, in violation of section 18-6-301, C.R.S.; or

(VI) Aggravated incest, in violation of section 18-6-302, C.R.S.;

(c) Any adult who has more than one conviction as an adult for unlawful sexual behavior or any other offense, the underlying factual basis of which is unlawful sexual behavior pursuant to section 16-22-103(2), in this state or any other jurisdiction, except as provided in section 18-6-403(5.7), or has a conviction as an adult and one or more adjudications as a juvenile for unlawful sexual behavior or for any other offense, the underlying factual basis of which is unlawful sexual behavior pursuant to section 16-22-103(2), in this state or any other jurisdiction.

Credits

Added by Laws 2002, Ch. 297, § 1, eff. July 1, 2002. Amended by Laws 2004, Ch. 297, §§ 15, 16 eff. May 27, 2004; Laws 2008, Ch. 187, § 2, eff. April 25, 2008; Laws 2008, Ch. 378, § 2, eff. July 1, 2008; Laws 2011, Ch. 224, § 7, eff. May 27, 2011; Laws 2012, Ch. 208, § 100, eff. July 1, 2012; Laws 2013, Ch. 272, § 5, eff. July 1, 2013; Laws 2017, Ch. 250, § 4, eff. Sept. 1, 2017; Laws 2018, Ch. 143, § 3, eff. Aug. 8, 2018; Laws 2021, Ch. 136 (S.B. 21-059), § 31, eff. Oct. 1, 2021; Laws 2021, Ch. 320 (H.B. 21-1064), § 8, eff. Sept. 1, 2021; Laws 2021, Ch. 446 (H.B. 21-1069), § 3, eff. Sept. 7, 2021.

C. R. S. A. § 16-22-113, CO ST § 16-22-113

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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APPENDIX H

West's Colorado Revised Statutes Annotated
Title 18. Criminal Code (Refs & Annos)
Article 3. Offenses Against the Person (Refs & Annos)
Part 4. Unlawful Sexual Behavior (Refs & Annos)

C.R.S.A. § 18-3-412.5

§ 18-3-412.5. Failure to register as a sex offender

Effective: March 1, 2022
Currentness

(1) A person who is required to register pursuant to article 22 of title 16 and who fails to comply with any of the requirements placed on registrants by said article 22, including but not limited to committing any of the acts specified in this subsection (1), commits the offense of failure to register as a sex offender:

(a) Failure to register pursuant to article 22 of title 16, C.R.S.;

(b) Submission of a registration form containing false information or submission of an incomplete registration form;

(c) Failure to provide information or knowingly providing false information to a probation department employee, to a community corrections administrator or his or her designee, or to a judge or magistrate when receiving notice pursuant to section 16-22-106(1), (2), or (3), C.R.S., of the duty to register;

(d) If the person has been sentenced to a county jail, otherwise incarcerated, or committed, due to conviction of or disposition or adjudication for an offense specified in section 16-22-103, C.R.S., failure to provide notice of the address where the person intends to reside upon release as required in sections 16-22-106 and 16-22-107, C.R.S.;

(e) Knowingly providing false information to a sheriff or his or her designee, department of corrections personnel, or department of human services personnel concerning the address where the person intends to reside upon release from the county jail, the department of corrections, or the department of human services. Providing false information shall include, but is not limited to, providing false information as described in section 16-22-107(4)(b), C.R.S.

(f) Failure when registering to provide the person's current name and any former names;

(g) Failure to register with the local law enforcement agency in each jurisdiction in which the person resides upon changing an address, establishing an additional residence, or legally changing names;

(h) Failure to provide the person's correct date of birth, to sit for or otherwise provide a current photograph or image, to provide a current set of fingerprints, or to provide the person's correct address;

(i) Failure to complete a cancellation of registration form and file the form with the local law enforcement agency of the jurisdiction in which the person will no longer reside pursuant to section 16-22-108(4)(a)(II);

(j) When the person's place of residence is a trailer or motor home, failure to register an address at which the trailer or motor home is lawfully located pursuant to section 16-22-109(1)(a.3), C.R.S.;

(k) Failure to register an e-mail address, instant-messaging identity, or chat room identity prior to using the address or identity if the person is required to register that information pursuant to section 16-22-108(2.5), C.R.S.

(1.5)(a) In a prosecution for a violation of this section, it is an affirmative defense that:

(I) Uncontrollable circumstances prevented the person from complying;

(II) The person did not contribute to the creation of the circumstances in reckless disregard of the requirement to comply; and

(III) The person complied as soon as the circumstances ceased to exist.

(b) In order to assert the affirmative defense pursuant to this subsection (1.5), the defendant shall provide notice to the prosecuting attorney as soon as practicable, but not later than thirty-five days prior to trial, of his or her notice of intent to rely upon the affirmative defense. The notice shall include a description of the uncontrollable circumstance or circumstances and the dates the uncontrollable circumstances began and ceased to exist in addition to the names and addresses of any witnesses the defendant plans to call to support the affirmative defense. The prosecuting attorney shall advise the defendant of the names and addresses of any additional witnesses who may be called to refute such affirmative defense as soon as practicable after their names become known. Upon the request of the prosecution, the court shall first rule as a matter of law whether the claimed facts and circumstances would, if established, constitute sufficient evidence to support submission to the jury.

(2)(a) Failure to register as a sex offender is a class 6 felony if the person was convicted of felony unlawful sexual behavior, or of another offense, the underlying factual basis of which includes felony unlawful sexual behavior, or if the person received a disposition or was adjudicated for an offense that would constitute felony unlawful sexual behavior if committed by an adult, or for another offense, the underlying factual basis of which involves felony unlawful sexual behavior; except that any second or subsequent offense of failure to register as a sex offender by such person is a class 5 felony.

(b) Any person convicted of felony failure to register as a sex offender shall be sentenced pursuant to the provisions of section 18-1.3-401. If such person is sentenced to probation, the court may require, as a condition of probation, that the person participate until further order of the court in an intensive supervision probation program established pursuant to section 18-1.3-1007. If such person is sentenced to incarceration and subsequently released on parole, the parole board may require, as a condition of parole, that the person participate in an intensive supervision parole program established pursuant to section 18-1.3-1005.

(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).

(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).

(4)(a) Any juvenile who receives a disposition or is adjudicated for a delinquent act of failure to register as a sex offender that would constitute a felony if committed by an adult shall be sentenced to a forty-five-day mandatory minimum detention sentence; except that any juvenile who receives a disposition or is adjudicated for a second or subsequent delinquent act of failure to register as a sex offender that would constitute a felony if committed by an adult shall be placed or committed out of the home for not less than one year.

(b) Any juvenile who receives a disposition or is adjudicated for a delinquent act of failure to register as a sex offender that would constitute a misdemeanor if committed by an adult shall be sentenced to a thirty-day mandatory minimum detention sentence; except that any juvenile who receives a disposition or is adjudicated for a second or subsequent delinquent act of failure to register as a sex offender that would constitute a misdemeanor if committed by an adult shall be sentenced to a forty-five-day mandatory minimum detention sentence.

(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.

(6)(a) When a peace officer determines that there is probable cause to believe that a crime of failure to register as a sex offender has been committed by a person required to register as a sexually violent predator in this state pursuant to article 22 of title 16, C.R.S., or in any other state, the officer shall arrest the person suspected of the crime. It shall be a condition of any bond posted by such person that the person shall register pursuant to the provisions of section 16-22-108, C.R.S., within seven days after release from incarceration.

(b) When a peace officer makes a warrantless arrest pursuant to this subsection (6), the peace officer shall immediately notify the Colorado bureau of investigation of the arrest. Upon receiving the notification, the Colorado bureau of investigation shall notify the jurisdiction where the sexually violent predator last registered. The jurisdiction where the sexually violent predator last registered, if it is not the jurisdiction where the probable cause arrest is made, shall coordinate with the arresting jurisdiction immediately to determine the appropriate jurisdiction that will file the charge. If the sexually violent predator is being held in custody after the arrest, the appropriate jurisdiction shall have no less than seven days after the date of the arrest to charge the sexually violent predator.

Credits

Added by Laws 1991, S.B.91-96, § 1, eff. April 17, 1991. Repealed and reenacted by Laws 1994, H.B.94-1192, § 1, eff. July 1, 1994. Amended by Laws 1995, H.B.95-1044, § 16, eff. July 1, 1995; Laws 1995, H.B.95-1202, § 1, eff. June 5, 1995; Laws 1996, H.B.96-1005, § 25, eff. Jan. 1, 1997; Laws 1996, H.B.96-1181, § 5, eff. July 1, 1996; Laws 1997, H.B.97-1077, § 19, eff. July 1, 1997; Laws 1997, H.B.97-1084, § 1, eff. March 31, 1997; Laws 1997, H.B.97-1145, §§ 6, 7, eff. July 1, 1997; Laws 1997, S.B.97-84, § 9, eff. July 1, 1997; Laws 1998, Ch. 139, § 1, eff. April 21, 1998; Laws 1999, Ch. 215, § 19, eff. July 1, 1999; Laws 1999, Ch. 286, §§ 2, 6, 13, 14, 19, 20, 21, eff. July 1, 1999; Laws 2000, Ch. 78, § 3, eff. Aug. 2, 2000; Laws 2000, Ch. 125, § 2, eff. July 1, 2000; Laws 2000, Ch. 171, § 30, eff. July 1, 2000; Laws 2000, Ch. 173, §§ 1 to 5, eff. May 23, 2000; Laws 2000, Ch. 216, §§ 1 to 6, 8, eff. July 1, 2000; Laws 2001, Ch. 176, § 2, eff. May 29, 2001; Laws 2001, Ch. 199, §§ 1, 2, 8, eff. May 30, 2001; Laws 2001, Ch. 266, §§ 1 to 3, eff. June 5, 2001. Repealed and reenacted by Laws 2002, Ch. 297, § 2, eff. July 1, 2002. Amended by Laws 2002, Ch. 318, § 393, eff. Oct. 1, 2002; Laws 2004, Ch. 200, § 7, eff. Aug. 4, 2004; Laws 2004, Ch. 297, §§ 17, 18, eff. May 27, 2004; Laws 2006, Ch. 288, § 7, eff. May 30, 2006; Laws 2007, Ch. 54, § 4, eff. March 26, 2007; Laws 2007, Ch. 382, § 4, eff. July 1, 2007; Laws 2011, Ch. 224, § 10, eff. May 27, 2011; Laws 2012, Ch. 208, § 128, eff. July 1, 2012; Laws 2018, Ch. 255, § 2, eff. Aug. 8, 2018; Laws 2022, Ch. 68 (H.B. 22-1229), § 22, eff. March 1, 2022.

C. R. S. A. § 18-3-412.5, CO ST § 18-3-412.5

Current through legislation effective August 12, 2026 of the Second Regular Session, 75th General Assembly (2026). Some statute sections may be more current. See credits for details.

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APPENDIX I

West's Colorado Revised Statutes Annotated
Title 16. Criminal Proceedings
Code of Criminal Procedure
Article 13. Special Proceedings (Refs & Annos)
Part 9. Community Notification Concerning Sexually Violent Predators

C.R.S.A. § 16-13-901

§ 16-13-901. Legislative declaration

Currentness

The general assembly hereby finds that persons who are convicted of offenses involving unlawful sexual behavior and who are identified as sexually violent predators pose a high enough level of risk to the community that persons in the community should receive notification concerning the identity of these sexually violent predators. The general assembly also recognizes the high potential for vigilantism that often results from community notification and the dangerous potential that the fear of such vigilantism will drive a sex offender to disappear and attempt to live without supervision. The general assembly therefore finds that sex offender notification should only occur in cases involving a high degree of risk to the community and should only occur under carefully controlled circumstances that include providing additional information and education to the community concerning supervision and treatment of sex offenders.

Credits

Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2006, Ch. 288, § 1, eff. May 30, 2006.

C. R. S. A. § 16-13-901, CO ST § 16-13-901

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West's Colorado Revised Statutes Annotated
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C.R.S.A. § 16-13-902

§ 16-13-902. Definitions

Effective: May 27, 2011
Currentness

As used in this part 9, unless the context otherwise requires:

(1) "Department" means the department of corrections created in section 24-1-128.5, C.R.S.

(2) "Management board" means the sex offender management board created in section 16-11.7-103.

(3) "Parole board" means the state board of parole created in section 17-2-201, C.R.S.

(4) "Sex offender" means a person sentenced pursuant to part 10 of article 1.3 of title 18, C.R.S.

(5) "Sexually violent predator" means a sex offender who is identified as a sexually violent predator pursuant to section 18-3-414.5, C.R.S., or who is found to be a sexually violent predator or its equivalent in any other state or jurisdiction, including but not limited to a military or federal jurisdiction. For purposes of this subsection (5), "equivalent", with respect to an offender found to be a sexually violent predator or its equivalent, means a sex offender convicted in another state or jurisdiction, including but not limited to a military, tribal, territorial, or federal jurisdiction, who has been assessed or labeled at the highest registration and notification levels in the jurisdiction where the conviction was entered and who satisfies the age, date of offense, and conviction requirements for sexually violent predator status pursuant to Colorado law.

(6) "Technical assistance team" means the group of persons established by the division of criminal justice pursuant to section 16-13-906 to assist local law enforcement in carrying out community notification and to provide general community education concerning sex offenders.

Credits
Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2006, Ch. 288, § 2, eff. May 30, 2006; Laws 2011, Ch. 224, § 1, eff. May 27, 2011.

C. R. S. A. § 16-13-902, CO ST § 16-13-902

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C.R.S.A. § 16-13-903

§ 16-13-903. Sexually violent predator subject to community notification--determination--implementation

Effective: May 27, 2011
Currentness

(1) A sexually violent predator shall be subject to community notification as provided in this part 9, pursuant to criteria, protocols, and procedures established by the management board pursuant to section 16-13-904.

(2) Deleted by Laws 2006, Ch. 288, § 3, eff. May 30, 2006.

(3)(a) When a sexually violent predator is sentenced to probation or community corrections or is released into the community following incarceration, the sexually violent predator's supervising officer, or the official in charge of the releasing facility or his or her designee if there is no supervising officer, shall notify the local law enforcement agency for the jurisdiction in which the sexually violent predator resides or plans to reside upon release from incarceration. The local law enforcement agency shall notify the Colorado bureau of investigation, and the sexually violent predator's status as being subject to community notification shall be entered in the central registry of persons required to register as sex offenders created pursuant to section 16-22-110.

(b) When a sexually violent predator living in a community changes residence, upon registration in the new community or notification to the new community's law enforcement agency, that agency shall notify the Colorado bureau of investigation and implement community notification protocols.

(4) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(5) A sex offender convicted in another jurisdiction who is designated as a sexually violent predator by the department of public safety for purposes of Colorado law shall be notified of his or her designation and shall have the right to appeal the designation in district court.

Credits

Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2002, Ch. 297, § 18, eff. July 1, 2002; Laws 2006, Ch. 288, § 3, eff. May 30, 2006; Laws 2011, Ch. 224, § 2, eff. May 27, 2011.

C. R. S. A. § 16-13-903, CO ST § 16-13-903

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Part 9. Community Notification Concerning Sexually Violent Predators

C.R.S.A. § 16-13-904

§ 16-13-904. Sex offender management board--duties

Currentness

(1) The management board, in collaboration with the department of corrections, the judicial department, and the parole board, shall establish and revise when necessary:

(a) Deleted by Laws 2006, Ch. 288, § 4, eff. May 30, 2006.

(b) Criteria to be applied by a local law enforcement agency in determining when to carry out a community notification;

(c) Protocols and procedures for carrying out community notification.

(2) The management board shall collaborate with the technical assistance team in establishing the protocols and procedures for carrying out community notification. Such protocols and procedures shall be designed to ensure that notice is provided in a manner that is as specific as possible to the population within the community that is at risk. Such protocols and procedures shall also include provision to the community of general information and education concerning sex offenders, including treatment and supervision of sex offenders, and procedures to attempt to minimize the risk of vigilantism.

(3) Deleted by Laws 2006, Ch. 288, § 4, eff. May 30, 2006.

Credits

Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2000, Ch. 216, § 15, eff. July 1, 2000; Laws 2006, Ch. 288, § 4, eff. May 30, 2006.

C. R. S. A. § 16-13-904, CO ST § 16-13-904
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C.R.S.A. § 16-13-905

§ 16-13-905. Local law enforcement--duties--immunity

Currentness

(1) The local law enforcement agency for the jurisdiction in which a sexually violent predator who is subject to community notification resides shall be responsible for carrying out any community notification regarding said sexually violent predator. Such community notification shall only occur under the circumstances and in the manner specified by the management board pursuant to section 16-13-904. The local law enforcement agency may apply to the division of criminal justice for assistance from the technical assistance team in carrying out any community notification.

(2) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Credits
Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2006, Ch. 288, § 5, eff. May 30, 2006.

C. R. S. A. § 16-13-905, CO ST § 16-13-905
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C.R.S.A. § 16-13-906

§ 16-13-906. Division of criminal justice--technical assistance team

Currentness

(1) The division of criminal justice of the department of public safety shall establish a technical assistance team to provide assistance to local law enforcement agencies in carrying out community notification. The technical assistance team shall include persons with expertise in sex offender management, sex offender supervision, and law enforcement.

(2) The technical assistance team shall also be available upon request to assist communities in providing general information concerning sex offenders, including treatment, management, and supervision of sex offenders within society. Such education may be provided in situations that are not related to the provision of notice concerning a specific sexually violent predator.

(3) Nothing in this section shall be construed to abrogate or limit the sovereign immunity granted to public entities pursuant to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

Credits
Added by Laws 1999, Ch. 286, § 17, eff. July 1, 1999. Amended by Laws 2000, Ch. 216, § 16, eff. July 1, 2000; Laws 2006, Ch. 288, § 6, eff. May 30, 2006.

C. R. S. A. § 16-13-906, CO ST § 16-13-906
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