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MEMORANDUM

January 20, 2009

TO: Members of the General Assembly
FROM: Jessika Shipley, Research Associate, 303-866-3528
SUBJECT: Colorado and Jessica's Law

This memorandum responds to a number of requests for information about Jessica's Law, specifically how Colorado law differs from the "model" Jessica's Law, which originated in Florida. What follows is a short explanation of Jessica's Law and a side-by-side comparison with the provisions in Colorado statute governing the registration of sex offenders.

Jessica's Law

Florida act. Jessica's Law is the informal name of the Jessica Lunsford Act, a 2005 Florida law addressing the punishment and supervision of sex offenders who target children. Jessica Lunsford was a nine-year-old girl who was raped and murdered in February 2005 by an individual with a prior conviction for a sex offense.

The Florida bill made seven major changes to the statutes governing the registration of sex offenders. It:

- increased the penalty for lewd and lascivious molestation of a child (under the age of 12) to life imprisonment or a split sentence of a mandatory minimum 25-year prison term, followed by lifetime supervision with electronic (satellite) monitoring;¹
- increased the period of time from 20 to 30 years before an individual can petition the court to remove a sexual predator designation;
- allows prosecutors to seek the death penalty in cases where the victim of a sex offense is murdered;
- elevated failure to register as a sex offender or harboring a sex offender from a class 4 felony to a class 3 felony;
- requires all convicted sex offenders who are ordered to have an electronic (satellite) monitor during probation to be monitored electronically for the entire period of

¹ Lewd and lascivious molestation of a child is defined as intentionally touching in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forcing or enticing a person under 16 years of age to so touch the perpetrator (Section 800.04 (5), Fla. Stat. Ann.). In Florida, sexual battery or rape of a child less than 12 years of age is a capital felony, punishable only by death or life imprisonment with no chance of parole.

- probation;
- increased the sex offender reporting and registration requirements;² and
- requires county probation officials to search the sex offender registry any time they are assigned a new offender.

Sexual predator versus sex offender. To be designated as a *predator*, the subject must have been found by the court to be a sexual predator. Florida law requires a written court finding for sexual predator status. Sexual predator designation only applies to sex offenses committed on or after October 1, 1993. In addition, the subject must have been convicted of either one first-degree felony sex crime, or two second-degree felony sex crimes. In the latter situation, the second offense must occur within 10 years of the previous offense, conviction, or release from the sanction of the court, whichever is later. Additionally as of July 1, 2004, anyone civilly committed under the Florida Jimmy Ryce Sexually Violent Predator Act must also register as a sexual predator.

The *sex offender* designation applies to any listed sex offense, regardless of the date the offense was committed, for which an offender is being released on or after October 1, 1997, from the "sanction imposed" for the offense, or, is currently under the care, custody, or control of the Florida Department of Corrections. "Sanction imposed" includes, but is not limited to, a fine, probation, community supervision, parole and conditional release, control release or incarceration.

This law was prospective rather than retroactive. If the subject was released from sanctions before the October 1, 1997 date, the subject is not required to register.

Comparison of Florida and Colorado Law

Table 1 provides a side-by-side comparison of the new provisions added to Florida law by the Jessica Lunsford Act in 2005 and current Colorado law with regard to sex offenses committed against children. The table compares such things as mandatory minimum sentences, the removal of a sexual predator designation, authority to seek the death penalty, sex offender registration requirements, and electronic monitoring of sex offenders in the community.

Additionally, there is no statute of limitations in Colorado for the prosecution of the following sex offenses against children:

- enticement of a child;
- sexual assault when the victim is less than 15 years of age;
- felony unlawful sexual contact when the victim is less than 15 years of age;
- sexual assault on a child;
- sexual assault on a child by one in a position of trust;
- aggravated incest;
- trafficking in children;

² An individual who is designated a sexual predator under Florida law is required to report in person twice a year, in the month of his or her birthday and again during the six months following the birth month. See Attachment B for a full explanation of registration requirements in Florida.

- sexual exploitation of a child;
- felony indecent exposure;
- soliciting for child prostitution;
- pandering of a child;
- procurement of a child;
- keeping a place of child prostitution;
- pimping of a child;
- inducement of a child;
- patronizing a prostituted child;
- internet luring of a child; and
- internet sexual exploitation of a child.

Table 1 - Comparison of the Provisions of Jessica's Law and Colorado Law on Sex Offenders

Subject	Jessica's Law	Colorado
Mandatory minimum sentences for serious sex offenses on a victim who is under the age of 12	Individuals convicted of lewd and lascivious molestation of a child, who are not sentenced to life, must be sentenced to at least 25 years imprisonment, followed by probation or community supervision for the remainder of the individual's natural life.	Most sex offenders in Colorado are subject to the Colorado Sex Offender Lifetime Supervision Act of 1998. Additionally, most sex offenses against children are subject to enhanced sentencing provisions. See Attachment A for an explanation of indeterminate sentencing of sex offenders.
Petitions to remove a sexual predator designation	An individual must wait 30 years after being designated as a sexual predator prior to petitioning the court to remove the designation.	Designation as a sexually violent predator is made during the probation or parole process using a risk assessment tool and by a determination of the court. It is not something that can be removed.
Death penalty	Prosecutors may seek the death penalty in cases where the victim of a sexual predator dies during (or as an immediate result of) a lewd and lascivious molestation of a child.	Prosecutors may seek the death penalty in cases where an individual commits sexual assault on a child and the victim dies during (or as an immediate result of) the sexual assault.
Failure to register as a sex offender	Third degree felony, punishable by a term of imprisonment not to exceed 5 years.	A first offense is a class 6 felony (punishable by 1 year to 18 months in prison, a fine of \$1,000 to \$100,000, or both) and a second offense is a class 5 felony (punishable by 1 to 3 years in prison, a fine of \$1,000 to \$100,000, or both). Depending on the circumstances of the case, an individual may petition to be removed from the sex offender registry.
Harboring a sex offender	Third degree felony, punishable by a term of imprisonment not to exceed 5 years.	It is a class 5 felony to harbor an individual who has committed, been convicted of, or is charged with a crime, or is suspected or wanted for a crime that is a class 3, 4, or 5 felony (all felony sex offenses fall into one of these three categories). ³
Electronic monitoring	All sexual predators are required to be monitored electronically, via global positioning satellite (GPS), for the entire period of probation.	Electronic monitoring, including GPS, is used as a sentence by the courts in lieu of jail. It is also used as a condition of bond for pre-trial supervision, as well as for monitoring some residential and non-residential parolees out in the community. All offenders who are subject to Intensive Supervision Program Parole (ISP-P) are monitored electronically. ⁴
Sex offender registration and reporting requirements	Sexual predators are required to report in person to re-register twice a year. (See Attachment B for details of sex offender registration in Florida.)	Sexually violent predators and individuals subject to lifetime supervision must register quarterly (every 90 days). All other sex offenders re-register annually. (See Attachment C for details of the Sex Offender Registration Act of 2002.)
County probation officials	County probation officials are required to search the state sex offender registry any time they are assigned a new offender.	In Colorado, probation cases are assigned according to judicial district, rather than by counties. Probation officers are not statutorily required to check the sex offender registry, although some may do so as a matter of local policy. Probation officers do receive presentence reports, which include a criminal history, on every offender.

³ A class 5 felony is punishable by one to three years in prison, a fine of \$1,000 to \$100,000, or both.

⁴ The ISP-P was established by statute for high risk-high needs offenders who present increased risk to the community. These offenders would not generally be considered as good candidates for parole by the board and would not receive favorable consideration for release (discretionary) because of the risk posed were it not for the increased supervision, surveillance, and contact by Community Parole Officers this program offers.

INDETERMINATE SENTENCING FOR SEX OFFENDERS IN COLORADO

According to the *Colorado Sex Offender Lifetime Supervision Act of 1998*, defendants who are convicted of most sex offenses, including sexual assault and almost all offenses involving children and family relations, are to be sentenced to the custody of the Colorado Department of Corrections for an indeterminate term of at least the minimum of the presumptive range for the level of offense committed and a maximum of the offender's natural life. The sentencing scheme for all applicable offenses is outlined in Table 2.

Table 2—Sentencing Scheme for Sex Offenders under the Colorado Sex Offender Lifetime Supervision Act of 1998

Class of Crime	Normal Presumptive Range	Crime of Violence	Maximum Sentence under Lifetime Supervision	Mandatory Parole
Class 2	8 to 24 years	16 to 48 years	The court is required to sentence a sex offender to prison for an indeterminate term of at least the minimum sentence in the presumptive range and a maximum of the sex offender's natural life.	5 years
Class 3	4 to 12 years	8 to 24 years		5 years
Class 3 (extraordinary risk of harm*)	4 to 16 years	10 to 32 years	If convicted for a sex offense that constitutes a <i>crime of violence</i> , the court is required to sentence the sex offender to prison for an indeterminate term of at least the midpoint in the presumptive range for the level of offense and a maximum of the sex offender's natural life.	5 years
Class 4	2 to 6 years	4 to 12 years		3 years
Class 4 (extraordinary risk of harm*)	2 to 8 years	5 to 16 years	If the sex offender committed a sex offense that makes him or her eligible for sentencing as an <i>habitual sex offender against children</i> ,** the court is required to sentence the sex offender to prison for an indeterminate term of at least three times the maximum in the presumptive range for the level of offense and a maximum of the sex offender's natural life.	3 years
Class 5	1 to 3 years	2 to 6 years		2 years
Class 5 (extraordinary risk of harm*)	1 to 4 years	2.5 to 8 years		2 years
Class 6	1 year to 18 months	15 months to 3 years		1 year
Class 6 (extraordinary risk of harm*)	1 to 2 years	18 months to 4 years		1 year

* Felony crimes that present an extraordinary risk of harm to society include, but are not limited to, any Section 18-1.3-406 crime of violence which includes sex offenses. Extraordinary risk of harm sentencing does not apply to Class 1 or Class 2 felonies. In all cases, the minimum sentence for Class 1 felonies is life imprisonment and the maximum sentence is the death penalty.

**Any person convicted in Colorado of an unlawful sexual offense against a child who has been previously been convicted of an unlawful sexual offense against a child, in this state or under the laws of any other state or under federal law, must be adjudicated by the court as an habitual sex offender against children.

REGISTRATION OF SEX OFFENDERS IN FLORIDA

Who Is Required to Register?

Sexual offenders and sexual predators are required to register (Section 775.21(6)(a), Fla. Stat. Ann.).

What Does "Sexual Offender" Mean?

"Sexual offender" means a person who meets the following three qualifications:

- (1) has been convicted of committing, or attempting, soliciting, or conspiring to commit:
 - (a) kidnaping, false imprisonment, luring, or enticing of a minor, if the offender is not the victim's parent;
 - (b) certain sexual battery offenses;
 - (c) procuring a person under 18 for prostitution;
 - (d) lewd or lascivious offenses committed upon or in the presence of persons under 16;
 - (e) lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person;
 - (f) sexual performance by a minor;
 - (g) selling, renting, loaning, giving away, distributing, transmitting, or showing obscene material to a minor;
 - (h) computer pornography;
 - (i) computer luring;
 - (j) transmission of pornography by electronic device or equipment;
 - (k) transmission of material harmful to minors to a minor by electronic device or equipment;
 - (l) selling or buying of minors; or
 - (m) a similar offense committed in another jurisdiction;
- (2) has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense listed in (1) above; and
- (3) establishes or maintains a residence in Florida and who:
 - has not been designated a sexual predator by a Florida court but who has been designated a sexual predator, a sexually violent predator, or some other sexual offender in another state or jurisdiction and was, as a result of such designation, subject to registration or community/public notification, or both, or would be if the person were a resident of that state or jurisdiction; or
 - is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, a criminal offense listed in (1)(a) through (m) above. (Section 943.0435(1)(a), Fla. Stat. Ann.)

Who Is a "Sexual Predator"?

A "sexual predator" is one who, on or after October 1, 1993 meets all of the following three criteria:

- (1) was convicted of:
 - (a) kidnaping or false imprisonment, if the victim is a minor and the offender is not the victim's parent;
 - (b) lewd or lascivious offenses committed upon or in the presence of persons under 16;
 - (c) selling or buying minors;
 - (d) luring or enticing a minor, if the offender is not the victim's parent;
 - (e) certain sexual battery offenses;
 - (f) unlawful sexual activity with certain minors;
 - (g) procuring a person under 18 for prostitution;
 - (h) lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person;
 - (i) sexual performance by a minor;
 - (j) selling, renting, loaning, giving away, distributing, transmitting, or showing obscene material to a minor;
 - (k) computer pornography involving a minor;
 - (l) computer luring of a minor;
 - (m) attempting to commit an offense listed in (a) through (l) above; or
 - (n) an offense similar to those listed in (a) through (m) above committed in another jurisdiction;
- (2) has not yet received a pardon for an offense listed above; and

(3) has not had a conviction of one of the above offenses or similar law of another jurisdiction set aside in any postconviction proceeding. (Section 775.21(4)(a) Fla. Stat. Ann.)

When and Where Does an Offender Register?

Sexual offenders. A sexual offender must report in person at an office of the Florida Department of Law Enforcement or at the sheriff's office in the county in which he or she establishes or maintains a permanent or temporary residence within 48 hours after establishing permanent or temporary residence in Florida or within 48 hours after being released from the custody, control, or supervision of the Florida Department of Corrections or from the custody of a private correctional facility. (Section 943.0435(2)(a), Fla. Stat. Ann.)

Sexual predators. A sexual predator must register with the Florida Department of Law Enforcement and/or the local sheriff's office. Registration must be accomplished within 48 hours of entering a county to establish residence. If a sexual predator is in the custody or control of, or under the supervision of, the Florida Department of Corrections, or is in the custody of a private correctional facility, he or she must register with the Department of Corrections. If a sexual predator is in the custody of a local jail, the custodian of the local jail

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must register him or her and forward the registration information to the Florida Department of Law Enforcement. If the sexual predator is not in the custody or control of, or under the supervision of, the Florida Department of Corrections, or is not in the custody of a private correctional facility, and establishes or maintains a residence in Florida, her or she must register in person at an office of the Florida Department of Law Enforcement, or at the sheriff's office in the county in which he or she establishes or maintains a residence, within 48 hours after establishing permanent or temporary residence in Florida. (Section 775.21(6), Fla. Stat. Ann.)

What Information must an Offender Provide at the Time of Registration?

Information that the sexual offender/predator must provide at the initial registration includes his or her:

- name;
- date of birth;
- social-security number;
- race;
- sex;
- height and weight;
- hair and eye color;
- tattoos or other identifying marks;
- occupation and place of employment;
- address of permanent or legal residence or address of any current temporary residence, within Florida and out-of-state including a rural route address and a post office box;
- date and place of each conviction; and
- a brief description of the offense(s) committed. (Section 775.21(6)(a), Fla. Stat. Ann.)

In addition sexual predators must provide:

- a photograph;
- fingerprints; and
- any other information determined necessary by the Florida Department of Law Enforcement including criminal and corrections records, nonprivileged personnel and treatment records, and evidentiary genetic markers when available. (Section 775.21(6)(a), Fla. Stat. Ann.)

If the sexual offender's/predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home he or she must provide to the Florida Department of Law Enforcement written notice of:

- the vehicle-identification number;
- the license-tag number;
- the registration number; and
- a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. (Section 775.21(6)(a)(1)(a), Fla. Stat. Ann.)

If a sexual offender's/predator's place of residence is a vessel, live-aboard vessel, or houseboat, he or she must provide to the Florida Department of Law Enforcement written

notice of:

- the hull identification number;
- the manufacturer's serial number;
- the name of the vessel, live-aboard vessel, or houseboat;
- the registration number; and
- a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.
(Section 775.21(6)(a)(1)(a), Fla. Stat. Ann.)

If a sexual offender/predator is enrolled, employed, or carrying on a vocation at an institution of higher education in Florida, the sexual predator must provide to the Florida Department of Law Enforcement the name, address, and county of each institution, including each campus attended and his or her enrollment or employment status. Each change in enrollment or employment status must be reported in person at the sheriff's office or the Florida Department of Corrections if in the custody or control of or under the supervision of the Department, within 48 hours after any change in status.
(Section 775.21(6)(a)(1)(b), Fla. Stat. Ann.)

What Happens If an Offender Changes His or Her Address or Other Registration Information During the Registration Period?

Within 48 hours of any change in a sexual offender's/predator's temporary or permanent residence or name, he or she must report in person to the driver's license office to register the change. The Florida Department of Highway Safety and Motor Vehicles will forward the new information to the Florida Department of Law Enforcement.
(Section 775.21 (6)(g), Fla. Stat. Ann.)

What Happens If an Offender Moves from Florida to Another State?

A sexual offender/predator who intends to establish residence in another state must report in person to the sheriff of the county of current residence or the Florida Department of Law Enforcement within 48 hours before the date he or she intends to leave Florida to establish residence in another state. The notification must include the address, municipality, county, and state of intended residence. The sheriff must promptly provide the Department of Law Enforcement with the information received from the sexual offender/predator. The Department of Law Enforcement is then responsible for notifying the statewide law-enforcement agency or a comparable agency in the intended state or jurisdiction of residence of the sexual predator's intended residence. (Section 775.21(6)(i), Fla. Stat. Ann.)

Is an Offender Who Moves from Another State to Florida Required to Register?

A person who establishes or maintains a residence in Florida and who has not been designated a sexual predator by a Florida court but who has been designated a sexual predator, a sexually violent predator, or some other type of sexual offender in another state or jurisdiction and was, as a result of such designation, subjected to registration or

community/public notification, or both, or would be if the person was a resident of that state or jurisdiction, is required to register in Florida. (Section 775.21(5)(d), Fla. Stat. Ann.)

What If an Offender Lives in Another State but Works or Goes to School in Florida?

If a sexual predator is enrolled, employed, or carrying on a vocation at an institution of higher education in Florida, he or she must provide to the Florida Department of Law Enforcement the name, address, and county of each institution, including each campus attended, and his or her enrollment or employment status. Each change in enrollment or employment status must be reported in person at the sheriff's office or the Florida Department of Corrections if the predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. (Section 775.21(6)(a)(1)(b), Fla. Stat. Ann.)

Is Registration a Lifetime Requirement?

Sexual offenders. A sexual offender must maintain registration with the Florida Department of Law Enforcement for the duration of his or her life, unless he or she receives a full pardon or has a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying him or her as a sexual offender for purposes of registration; however, a sexual offender who:

- has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years and has not been arrested for any felony or misdemeanor offense since release; or
- was 18 or under at the time the offense was committed and the victim was 12 or older and adjudication was withheld for that offense, who is released from all sanctions, who has had 10 years elapse since having been placed on probation, and who has not been arrested for any felony or misdemeanor offense since the date of conviction of the qualifying offense;

may petition the criminal division of the circuit court of the circuit in which he or she resides for the purpose of removing the requirement for registration as a sexual offender. (Section 943.0435(11), Fla. Stat. Ann.)

Sexual predators. A sexual predator must maintain registration with the Florida Department of Law Enforcement for the duration of his or her life, unless he or she receives a full pardon or has a conviction set aside in a postconviction proceeding for any offense that meets the criteria for the sexual-predator designation. (Section 775.21(6)(l), Fla. Stat. Ann.)

A sexual predator who was designated as such by a court before October 1, 1998, and who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 10 years and has not been arrested for any felony or misdemeanor offense since release, may petition the criminal division of the circuit court in the circuit in which he or she resides for the purpose of removing the sexual-predator designation. (Section 775.21(6)(l), Fla. Stat. Ann.)

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A sexual predator who was designated as such by a court on or after October 1, 1998, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 20 years, and who has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court in the circuit in which he or she resides for the purpose of removing the sexual-predator designation. (Section 775.21(6)(l), Fla. Stat. Ann.)

A sexual predator who was designated as such by a court on or after September 1, 2005, who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 30 years, and who has not been arrested for any felony or misdemeanor offense since release may petition the criminal division of the circuit court in the circuit in which he or she resides for the purpose of removing the sexual-predator designation. (Section 775.21(6)(l), Fla. Stat. Ann.)

Are There Any Penalties for Failing to Register or for Providing False Information?

A sexual offender who does not comply with the registration requirements commits a felony of the third degree. (Section 943.0435(9), Fla. Stat. Ann.)

A sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver's license or identification card; who fails to provide required location information or change-of-name information; or who otherwise fails, by act or omission, to comply with the registration requirements, commits a felony of the third degree. (Section 775.21(10)(a), Fla. Stat. Ann.)

What Information Is Released to the Public about Registered Offenders?

The Florida Department of Law Enforcement provides, through a toll-free number, public access to registration information regarding sexual offenders/predators, provided the information is not confidential and exempt from public disclosure. (Section 943.043(2), Fla. Stat. Ann.) The Florida Department of Law Enforcement's sexual-predator registration list is a public record. The Department of Law Enforcement is authorized to disseminate this public information by any means deemed appropriate. (Section 775.21(6)(k)(2), Fla. Stat. Ann.)

Law-enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon being notified of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence must notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides must notify each licensed daycare center, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of his or her presence. (Section 775.21(7)(a), Fla. Stat. Ann.)

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Information provided to members of the community and the public regarding a sexual predator must include the predator's:

- name;
- description including a photograph;
- current address including the name of the county or municipality if known;
- circumstances of his or her offense(s); and
- whether the victim of his or her offense(s) was, at the time of the offense, a minor or an adult. (Section 775.21(7)(a), Fla. Stat. Ann.)

The Florida Department of Law Enforcement must provide, upon request and at a reasonable cost, a copy of the photograph of any sexual offender/predator maintained in the Department of Law Enforcement's files. (Section 943.043(3), Fla. Stat. Ann.) Statewide notification to the public is authorized, as deemed appropriate by local law-enforcement personnel and the department. (Section 775.21(7)(b), Fla. Stat. Ann.)

REGISTRATION AND SEX OFFENDERS IN THE COMMUNITY

The Sex Offender Registration Act (Sections 16-22-101 through 16-22-114, C.R.S.) was enacted in 2002. Definitions of the four sex offense classifications used in the act are listed in Appendix B (pages 21 and 22): (1) enticement of a child; (2) unlawful sexual offense; (3) unlawful sexual behavior; and (4) sexually violent predator.

Who must register? Colorado law requires the registration of any person who is a temporary or permanent resident of Colorado and who:

- was *convicted* on or after July 1, 1991, of an unlawful sexual offense or enticement of a child in the state of Colorado, or an equivalent offense in another state or jurisdiction (see page 21 for definitions of these two offenses);
- was *released* on or after July 1, 1991, from the corrections department in Colorado or any other state, having served a sentence for an unlawful sexual offense or enticement of a child, or an equivalent offense in another state or jurisdiction;
- was *convicted* on or after July 1, 1994, in the state of Colorado of unlawful sexual behavior (see page 22 for the definition of this offense) or of another offense, the underlying factual basis of which involved unlawful sexual behavior;
- is *released* from the custody of the Colorado Department of Corrections (DOC) on or after July 1, 1994, after serving a sentence for unlawful sexual behavior or for another offense, the underlying factual basis of which involved unlawful sexual behavior;
- is *convicted* of an offense in any other state or jurisdiction for which the person is required to register in the state or jurisdiction of conviction, or for which such person would be required to register if convicted in Colorado;
- receives a disposition or is adjudicated a juvenile delinquent for committing any act that may constitute unlawful sexual behavior; or
- receives a deferred juvenile adjudication for committing any act that may constitute unlawful sexual behavior.

For the purpose of sex offender registration, any person from another state who occupies a dwelling in Colorado, including a hotel or motel, for more than 14 days in any 30-day period is considered a temporary resident. Sex offenders who live in another state but work or go to school in Colorado are considered temporary residents. The term "other jurisdictions" includes, but is not limited to, federal and military jurisdictions. Sex offenders who are convicted and sentenced in Colorado but move to another state upon their release must register in that state.

A court can exempt a sex offender from the registration requirements if: (1) the person

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meets certain guidelines (e.g., the person was under the age of 18 at the time of the commission of the act); and (2) the court determines that the requirement would be unfairly punitive and that exempting the sex offender from the registration requirement would not pose a significant risk to the community. Prior to making a decision to exempt a sex offender from the registration requirement, the court must give the prosecuting attorney and the victim a chance to be heard at a hearing.

Who notifies sex offenders of the requirement to register? DOC personnel, county jail personnel, and probation and parole officers must notify sex offenders upon conviction or release from custody of their duty to register with local law enforcement in each and any jurisdiction in which they reside in the United States. In addition, Department of Human Services, Division of Youth Corrections personnel must notify juvenile sex offenders under their jurisdiction of the duty to register.

Where and when do sex offenders register? Sex offenders must register with either the local chief of police or county sheriff in each and any jurisdiction in which they reside, whether in Colorado, another state, or in multiple locations. The Colorado Bureau of Investigation (CBI) maintains the statewide sex offender registry in Colorado.

Registration must occur within five business days of one of the following: (1) release into the community under criminal justice supervision (e.g., probation, parole, community corrections); (2) notice of the requirement to register, if not incarcerated but sentenced directly to community supervision; or (3) establishment of temporary, permanent, or secondary residence(s) in the state. In addition to these requirements, sex offenders who are subject to lifetime registration must re-register 90 days after their release into the community, and every 90 days thereafter. Sex offenders who are released from prison in Colorado or another state with no further supervision must register the next business day following their release. Sex offenders are required to cancel their registration in a jurisdiction if they move and are no longer a permanent or temporary resident of that jurisdiction.

What information must sex offenders provide upon registration? When registering, a sex offender must provide the following on a standardized form prepared by CBI:

- name, including any and all legal names or aliases;
- date of birth;
- address;
- place of employment;
- all email addresses,
- any instant messaging and/or chat room identities;
- a current photograph; and
- a full set of fingerprints.

Sex offenders who are temporary residents of Colorado must also provide their address in their state of permanent residence and their place of employment in Colorado. Sex offenders

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who are employed at, are enrolled in, or volunteer for an institution of higher education must provide the name and address of the institution, and all addresses and locations at which the person may be physically located at the institution. Any sex offender whose place of residence is a trailer or motor home is required to register the address at which the trailer or motor home will be lawfully located. Motor vehicles may not be listed a place of residence.

How often and under what conditions are sex offenders required to re-register? Sex offenders must re-register annually on their birthday. In addition, sex offenders must re-register any time they change addresses, establish additional residences, or legally change their name. Sex offenders who are employed at, are enrolled in, or volunteer for an institution of higher education must re-register when they begin studying or working at an institution as an employee, student, or volunteer, and upon any change in work status or location at the institution. Also, if a trailer or motor home is moved to another location, it is the sex offender's responsibility to update his or her registration information.

Certain sex offenders must register quarterly (every 90 days) for the remainder of their lives, including any person who is:

- a sexually violent predator;
- convicted in Colorado as an adult of any of the following: (1) felony sexual assault, or first degree felony sexual assault or second degree felony sexual assault, as they existed prior to July 1, 2000; (2) sexual assault on a child; (3) sexual assault on a child by one in a position of trust; (4) sexual assault on a client by a psychotherapist; (5) incest; or (6) aggravated incest;
- convicted in another state or jurisdiction of an offense for which a person in that state or jurisdiction must register quarterly; and
- convicted of an offense in another state or jurisdiction that would require the person to register if the conviction occurred in Colorado.

Can a sex offender ever be removed from the registry? Sexually violent predators and sex offenders who are subject to lifetime registration cannot be removed from the registry. Other sex offenders can petition the court to discontinue their registration or the posting of their information on the Internet, as long as they have not subsequently received a disposition for, been adjudicated a juvenile delinquent for, or been otherwise convicted of any sexual offense. Depending on the offense for which they were convicted or factors surrounding the disposition of their case, sex offenders are eligible to request removal from the registry anywhere from the time they successfully complete their sentence to 20 years after their final release from the jurisdiction of the court. Appendix C contains a table showing when and under what conditions sex offenders are first eligible to petition for removal from the sex offender registry.

What are the penalties for failing to register as a sex offender? Failure to register as a sex offender or submitting false information on a registration form is punishable by confinement in prison or jail, a fine, or both. The offenses and penalties for failure to register as a sex offender in Colorado are listed in Table 1 on page 5 of this report.

Is the public notified when sex offenders are released into the community? Community

Attachment C

notification is only mandated for sexually violent predators (see Section 16-13-901, et seq., C.R.S.; also see page 24 for the definition of sexually violent predator). The law contains a legislative declaration from the General Assembly stating its desire to mandate community notification only in cases involving the highest degree of risk to the community, and its belief that such notification should only occur under carefully controlled circumstances.

The Sex Offender Management Board (SOMB), which is administered by the Colorado Department of Public Safety, Division of Criminal Justice, establishes criteria, protocols, and procedures under which a sexually violent predator is subject to community notification. The board also develops the procedures for community notification, which local law enforcement agencies must follow. The procedures require that notification be as specific as possible to the population within the community that is at risk. Because there is wide variation in the size, population, law enforcement resources, and technological capabilities of local jurisdictions across the state, the board develops several procedures and permits local jurisdictions to select the most appropriate one. Thus, the procedures that are used at the local level vary in accordance with the size, population, and resources of each jurisdiction.

Local law enforcement agencies are required to conduct local notification when a sexually violent predator is released into their jurisdiction. If there is a change to the sexually violent predator's status that might put another area of the community at risk, such as the sex offender's establishment of a new residence or place of employment, an additional notification may be necessary.

Local law enforcement agencies can also make a list of registered sex offenders in their jurisdiction available to the public for a fee.

What information about sex offenders can be released to the public? Colorado law contains a legislative declaration from the General Assembly stating that the public must have access to information concerning sex offenders so that they can protect themselves and their children. However, the legislative declaration also states that in making the information available to the public, it is not the intent of the General Assembly that the information be used to inflict retribution or additional punishment on any convicted sex offender.

Anyone in Colorado may request information about sex offenders, regardless of where they live. When requested, local law enforcement agencies may, but are not required to, release the following information about a sex offender, at a minimum:

- name, address or addresses, and aliases of the person;
- the person's date of birth;
- a photograph of the person, if requested and readily available; and
- the conviction resulting in the person's duty to register.

If a local law enforcement agency denies the request for this information by a person who lives outside its jurisdiction, the agency may forward the request to CBI, which must provide the information to the person who has requested it. Information about victims is not permitted to be released.

Attachment C

Is information about sex offenders available on the Internet? CBI is required to post on the Internet a list of sex offenders who are:

- sexually violent predators under the laws of Colorado or another state;
- persons who are required to register and have been convicted of two or more of the following offenses: (1) felony unlawful sexual behavior, or (2) a crime of violence; and
- persons who are required to register because of a felony conviction as an adult, but have failed to register.

In addition, the CBI may post on the Internet a list of felony sex offenders. The lists of sex offenders posted by CBI are to include the sex offender's name, physical description, and address. Physical description includes the person's sex, height, weight, any identifying characteristics, and photograph. The CBI website can be accessed at: **www.sor.state.co.us**.

Local law enforcement agencies may post on the Internet registration information about sex offenders on their registration list, if the sex offender is:

- an adult convicted of a felony sex offense;
- an adult convicted of a second or subsequent offense of any of the following: (1) sexual assault; (2) unlawful sexual contact; (3) sexual assault on a client; (4) sexual exploitation of a child by possession of sexually exploitive material; (5) indecent exposure; or (6) sexual conduct in a penal institution;
- a juvenile adjudicated for two or more offenses involving unlawful sexual behavior or for a crime of violence; or
- a juvenile who is required to register following adjudication for an offense that would have been a felony, if committed by an adult, and has failed to register.

Any law enforcement agency that posts sex offender registration information on a public web site must also post educational information concerning protection from sex offenders or provide a link to the educational information included on the CBI web site. Educational material posted on the Internet is to be developed by local law enforcement agencies, in cooperation with the SOMB and sexual assault victims' advocacy groups. Weld, Larimer, Arapahoe, El Paso, Jefferson, and Boulder counties, among others, currently post information about sex offenders online.