



Laws Governing Sex Offenders in Colorado

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INTRODUCTION

The purpose of this publication is to compile information on Colorado law related to sex offenses and sex offenders. Included in this report is the following:

- a listing of sex offenses in Colorado law;
- information on the statute of limitations for sex offenses;
- information on sentencing for sex offenses;
- a review of the provisions of Colorado's Lifetime Supervision of Sex Offenders Act;
- a review of sex offender registration requirements;
- a review of statutory provisions on the availability of information about sex offenders in the community;
- a review of Colorado law and sex offenders residing in the community.

The information in this report is current through 2006 session laws.

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SEX OFFENSES IN COLORADO CRIMINAL LAW

There are several categories of sex offenses in Colorado law. Some offenses are subject to lifetime supervision sentencing provisions for sex offenders and some are not. Also, some of these offenses are subject to sex offender registration requirements and some are not.

Table 1 lists the various categories of sex offenses with a brief description of the offense, the misdemeanor or felony level of offense, and whether the offense is subject to lifetime supervision sentencing provisions and sex offender registration requirements. The following categories of sex offense are listed in the following tables:

- offenses against the person (sex assaults, enticement, and unlawful sexual contact);
- offenses involving the family relations (incest, and trafficking, exploitation, and procurement of children);
- wrongs to at-risk adults and at-risk juveniles (sex assaults); and
- offenses relating to morals (prostitution, pimping, indecent exposure, and sexually explicit materials harmful to children).

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Against the Person				
Sexual assault	• Non-consensual sexual intrusion or sexual penetration on a victim by one or more actors (Section 18-3-402 (5)(a)(I), C.R.S.)	Class 2 felony	Yes	Yes
	• Non-consensual sexual intrusion or sexual penetration on a victim who suffers bodily injury during the assault (Section 18-3-402 (5)(a)(II), C.R.S.)	Class 2 felony	Yes	
	• Non-consensual sexual intrusion or sexual penetration on a victim by an actor who uses a deadly weapon, or an article fashioned in a manner to cause the victim to believe that the article is a deadly weapon, or represents verbally that the actor is armed with a deadly weapon, and uses the weapon, article, or representation to cause the victim to submit (Section 18-3-402 (5)(a)(III), C.R.S.)	Class 2 felony	Yes	
	• Non-consensual sexual intrusion or sexual penetration on a victim who is physically helpless, and the perpetrator knows that the victim is physically helpless and has not consented (Section 18-3-402 (1)(h), C.R.S.)	Class 3 felony	Yes	
	• Non-consensual sexual intrusion or sexual penetration by a perpetrator who causes submission of the victim through physical force or violence (Section 18-3-402 (4)(a), C.R.S.)	Class 3 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who causes submission of the victim by threat of imminent death, serious bodily injury, extreme pain, or kidnaping when the victim believes the perpetrator can execute the threats (Section 18-3-402 (4)(b), C.R.S.)	Class 3 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who causes submission of the victim by threatening future retaliation against the victim or another person, and the victim reasonably believes that the perpetrator will execute this threat (Section 18-3-402 (4)(c), C.R.S.)	Class 3 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who causes submission of the victim by substantially impairing the victim's power to appraise or control the victim's conduct by use of any drug, intoxicant, or other means (Section 18-3-402 (4)(d), C.R.S.)	Class 3 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who causes submission of the victim by means of significant consequence reasonably calculated to cause submission against the victim's will (Section 18-3-402 (1)(a), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who knows that the victim is incapable of appraising the victim's conduct (Section 18-3-402 (1)(b), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who knows that the victim submitted erroneously, believing the perpetrator to be the victim's spouse (Section 18-3-402 (1)(c), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration on a victim who is less than 15 years of age and the perpetrator is four years older than and is not the spouse of the victim (Section 18-3-402 (1)(d), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration on a victim who is in custody of law or detained in a hospital or other institution and the perpetrator has supervisory or disciplinary authority over the victim, which he or she uses to coerce the victim to submit (Section 18-3-402 (1)(f), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration by a perpetrator who purports to offer medical services while engaging in treatment or examination of a victim for other than a bona fide medical purpose or in a manner substantially inconsistent with reasonable medical practices (Section 18-3-402 (1)(g), C.R.S.)	Class 4 felony	Yes	
	• Sexual intrusion or sexual penetration on a victim who is at least 15 years old but less than 17 years old and the perpetrator is at least 10 years older than and is not the spouse of the victim (Section 18-3-402 (1)(e), C.R.S.)	Class 1 misdemeanor and extraordinary risk crime	No	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Against the Person (cont.)				
Enticement of a child	Inviting or persuading, or attempting to invite or persuade, with the intent to commit sexual assault or unlawful sexual contact, a child under the age of 15 into a vehicle, building, room, or secluded place, when the offender has a previous conviction for enticement of a child or sexual assault on a child (Section 18-3-305 (2), C.R.S.)	Class 3 felony	Yes	Yes
	Inviting or persuading, or attempting to invite or persuade, with the intent to commit sexual assault or unlawful sexual contact, a child under the age of 15 into a vehicle, building, room, or secluded place (Section 18-3-305 (2), C.R.S.)	Class 4 felony	Yes	
Internet luring of a child	Communicating a statement over a computer or computer network to a child under the age of 15 that describes explicit sexual conduct, and in connection with the communication, making a statement persuading or inviting the child to meet for any purpose when the person is more than four years older than the child (Section 18-3-306 (1), C.R.S.)	Class 5 felony	Yes	Yes
	Internet luring of a child with the intent to meet for the purpose of engaging in the crimes of sexual exploitation of a child or unlawful sexual contact (Section 18-3-306 (3), C.R.S.)	Class 4 felony	Yes	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Against the Person (cont.)				
Unlawful sexual contact	Using force or threat of force to induce or coerce a child to expose intimate parts or engage in any sexual contact, intrusion, or penetration with another person for the purpose of the actor's own sexual gratification (Section 18-3-404 (2)(b), C.R.S.)	Class 4 felony	Yes	Yes
	Sexual contact that occurs when an actor engages in treatment or examination of a victim for other than bona fide medical purposes or in a manner substantially inconsistent with reasonable medical purposes (Section 18-3-404 (1)(g), C.R.S.)	Class 4 felony	Yes	
	Inducing or coercing a child under the age of 18 to expose intimate parts or engage in any sexual contact, intrusion, or penetration with another person for the purpose of the actor's own sexual gratification (Section 18-3-404 (1.5), C.R.S.)	Class 4 felony	Yes	
	- Any sexual contact where the actor: - knows that the victim does not consent (Section 18-3-404 (1)(a), C.R.S.); - knows that the victim is incapable of appraising the nature of the victim's conduct (Section 18-3-404 (1)(b), C.R.S.); - knows the victim is physically helpless and has not consented (Section 18-3-404 (1)(c), C.R.S.); - has substantially impaired the victim's power to appraise or control the victim's conduct by employing any drug, intoxicant, or other means for the purpose of causing submission (Section 18-3-404 (1)(d), C.R.S.); or - has supervisory or disciplinary authority over a victim who is in custody of law or detained in a hospital or other institution, and uses that authority to coerce the victim to submit (Section 18-3-404 (1)(f), C.R.S.).	Class 1 misdemeanor and an extraordinary risk crime	No	
	Observing or taking a photograph (meaning any mechanically, electronically, or chemically reproduced visual material) of another person's intimate parts without that person's consent, in a situation where the observed person has a reasonable expectation of privacy (Section 18-3-404 (1.7), C.R.S.)	Class 1 misdemeanor and an extraordinary risk crime	No	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Against the Person (cont.)				
Sexual assault on a child	Any sexual contact committed by an actor who is at least four years older than a victim who is under the age of 15, where the actor applied force, or threatened death, injury, kidnaping, or future retaliation, or the actor committed the offense as part of a pattern of sexual abuse (Section 18-3-405 (2), C.R.S.)	Class 3 felony	Yes	Yes
	Any sexual contact committed by an actor who is at least four years older than a victim who is under the age of 15 (Section 18-3-405 (2), C.R.S.)	Class 4 felony	Yes	
Sexual assault on a child by one in a position of trust	Any sexual contact committed on a child who is less than 15 years of age or as part of a pattern of sexual abuse by an actor who is in a position of trust with respect to that child (Section 18-3-405.3 (2), C.R.S.)	Class 3 felony	Yes	Yes
	Any sexual contact committed on a child who is older than fifteen years of age but less than eighteen years of age (that is not part of a pattern of sexual abuse) by an actor who is in a position of trust with respect to that child (Section 18-3-405.3 (3), C.R.S.)	Class 4 felony	Yes	
Internet sexual exploitation of a child	Use of a computer network or system by an individual who is at least four years older than a child who is under the age of 15 to invite, entice, or importune such child to: expose or touch the child's own or another's intimate parts while communicating with the individual over the computer network system; or observe the individual's intimate parts while communicating via a computer network or system (Section 18-3-405.4 (1), C.R.S.)	Class 4 felony	Yes	Yes
Sexual assault on a client by a psychotherapist	Sexual penetration or sexual intrusion on a victim who is a patient by a psychotherapist (Section 18-3-405.5 (1), C.R.S.)	Class 4 felony	Yes	Yes
	Any sexual contact between a psychotherapist and a victim who is a client of the psychotherapist (Section 18-3-405.5 (2), C.R.S.)	Class 1 misdemeanor	No	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Against the Person (cont.)				
Failure to register as a sex offender	The second or subsequent instance of failure to register as a convicted sex offender or submitting false information on a registration form (Section 18-3-412.5 (2), C.R.S.)	Class 5 felony	No	Not applicable
	Failure to register as a convicted sex offender (felony unlawful sexual behavior) or submitting false information on a registration form (Section 18-3-412.5 (2), C.R.S.)	Class 6 felony	No	
	Failure to register as a convicted sex offender (misdemeanor unlawful sexual behavior) or submitting false information on a registration form (Section 18-3-412.5 (3), C.R.S.)	Class 1 misdemeanor (This crime presents an extraordinary risk of harm to society and the maximum sentence is increased by six months.)	No	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Involving the Family Relations				
Incest	Knowingly marrying, inflicting sexual penetration or sexual intrusion on, or subjecting to sexual contact an ancestor or descendant, including a natural child, child by adoption, or stepchild 21 years of age or older, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood where "descendant" includes a child by adoption and a stepchild, but only if the person is not legally married to the child by adoption or the stepchild (Section 18-6-301, C.R.S.)	Class 4 felony	Yes	Yes
Aggravated incest	• Marrying, inflicting sexual penetration or sexual intrusion on, or subjecting to sexual contact a descendant, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood who is under ten years of age (Section 18-6-302 (2), C.R.S.)	Class 3 felony	Yes	Yes
	• Marriage to an actor's natural child (Section 18-6-302 (2), C.R.S.)	Class 3 felony	Yes	
	• Infliction of sexual penetration or sexual intrusion on, or inflicting sexual contact on a natural child, stepchild, or child by adoption, where the "child" is defined as a person under the age of 21 (<i>this section does not apply in cases of a legal marriage to a child by adoption or stepchild</i>) (Section 18-6-302 (2), C.R.S.)	Class 3 felony	Yes	
Trafficking in children	Selling, exchanging, leasing, or bartering a child under the age of 16; receiving money or other consideration for a child under the age of 16; or receiving a child under the age of 16 as a result of a transaction (Section 18-6-402 (1), C.R.S.)	Class 3 felony	Yes	Yes
Sexual exploitation of children	• Knowingly causing a child to engage in or be used for explicit sexual conduct or trafficking in sexually exploitative material (Section 18-6-403 (5), C.R.S.)	Class 3 felony	Yes	Yes
	• The second or subsequent offense of sexual exploitation of a child by possession of sexually exploitative material, or a first or subsequent offense of possession of more than 20 different items qualifying as sexually exploitative material (Section 18-6-403 (5), C.R.S.)	Class 4 felony	Yes	
	• Sexual exploitation of a child by possession of sexually exploitative material (Section 18-6-403 (5), C.R.S.)	Class 6 felony	Yes	
Procurement of a child for sexual exploitation	Intentionally giving, transporting, providing, or making available, or offering to give, transport, provide, or make available a child for the purpose of sexually exploiting the child (Section 18-6-404, C.R.S.)	Class 3 felony	Yes	Yes

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Wrongs to At-Risk Adults and At-Risk Juveniles				
Sexual assault against at-risk adults or at-risk juveniles	Sexual assault, as defined in Section 18-3-402, C.R.S, on a victim who is an at-risk adult or at-risk juvenile (Section 18-6.5-103 (7)(a), C.R.S.)	Class 2 felony	No	No
Sexual assault on a child (at-risk juveniles)	Any sexual contact committed by an actor who is at least four years older than a victim who is an at-risk juvenile and is under the age of 15, where the actor applied force, or threatened death, injury, kidnaping, or future retaliation, or the actor committed the offense as part of a pattern of sexual abuse (Section 18-6.5-103 (7)(d), C.R.S.)	Class 2 felony	No	No
	Any sexual contact committed by an actor who is at least four years older than a victim who is an at-risk juvenile and is under the age of 15 (Section 18-6.5-103 (7)(d), C.R.S.)	Class 3 felony	No	
Sexual assault by one in a position of trust (at-risk juveniles)	Any sexual contact committed on an at-risk juvenile who is less than 15 years of age or as part of a pattern of sexual abuse by an actor who is in a position of trust with respect to that at-risk juvenile (Section 18-6.5-103 (7)(e), C.R.S.)	Class 2 felony	No	No
	Any sexual contact committed on an at-risk juvenile who is older than 15 years of age but less than 18 years of age (that is not part of a pattern of sexual abuse) by an actor who is in a position of trust with respect to that at-risk juvenile (Section 18-6.5-103 (7)(e), C.R.S.)	Class 3 felony	No	
Sexual assault by a psychotherapist (at-risk adults or at-risk juveniles)	Aggravated sexual assault by a psychotherapist, as defined in Section 18-3-405.5 (1), C.R.S, on a victim who is a client and an at-risk adult or at-risk juvenile (Section 18-6.5-103 (7)(f), C.R.S.)	Class 3 felony	No	No
	Sexual sexual assault by a psychotherapist, as defined in Section 18-3-405.5, C.R.S, on a victim who is a client and an at-risk adult or at-risk juvenile (Section 18-6.5-103 (7)(f), C.R.S.)	Class 6 Felony	No	

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Relating to Morals				
Prostitution	An actor offering or agreeing to perform a sexual act with any person who is not that actor's spouse in exchange for money or other things of value (Section 18-7-201 (1), C.R.S.)	Class 3 misdemeanor	No	No
Prostitution with knowledge of being infected with AIDS	An actor, who has tested positive for HIV, offering or agreeing to perform a sexual act with any person who is not that actor's spouse in exchange for money or other things of value (Section 18-7-201.7 (1), C.R.S.)	Class 5 felony	No	No
Soliciting for prostitution	Soliciting another, arranging or offering to arrange a meeting of persons, or directing another to a place for the purpose of prostitution (Section 18-7-202 (1), C.R.S.)	Class 3 misdemeanor	No	No
Pandering	• Inducing a person by menacing or criminal intimidation to commit prostitution (Section 18-7-203 (1)(a), C.R.S.)	Class 5 felony	No	No
	• Knowingly arranging or offering to arrange a situation in which a person may practice prostitution (Section 18-7-203 (1)(b), C.R.S.)	Class 3 misdemeanor	No	
Keeping a place of prostitution	Having or exercising control over the use of any place which offers seclusion or shelter for the practice of prostitution and performing any one or more of the following: • knowingly granting or permitting the use of such place for the purpose of prostitution; or • permitting the continued use of such place for the purpose of prostitution after becoming aware of facts or circumstances from which a reasonable individual would know that the place is being used for purposes of prostitution (Section 18-7-204, C.R.S.)	Class 2 misdemeanor	No	No
Patronizing a prostitute	• The third (or higher) conviction for engaging in a sexual act with a prostitute; or entering or remaining in a place of prostitution with intent to engage in a sexual act (Section 18-7-205 (1), C.R.S.)	Class 1 misdemeanor	No	No
	• Engaging in a sexual act with a prostitute; or entering or remaining in a place of prostitution with intent to engage in a sexual act (Section 18-7-205 (1), C.R.S.)	Class 1 petty offense	No	
Patronizing a prostitute with knowledge of being infected with AIDS	Engaging in a sexual act with a prostitute; or entering or remaining in a place of prostitution with intent to engage in a sexual act, after testing positive for HIV (Section 18-7-205.7, C.R.S.)	Class 6 felony	No	No
Pimping	Living on, or being supported or maintained by, money or other things of value earned, received, procured, or realized by any other individual through prostitution (Section 18-7-206, C.R.S.)	Class 3 felony	No	No

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Relating to Morals (cont.)				
Promoting sexual immorality	For the purpose of monetary gain, furnishing or making available any facility for the use of individuals who are not husband and wife to engage in sexual acts (Section 18-7-208, C.R.S.)	Class 2 misdemeanor	No	No
Indecent exposure	• Third or subsequent incident of knowingly exposing one's genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person (Section 18-7-302 (4), C.R.S.)	Class 6 felony	No	Yes
	• Knowingly exposing one's genitals to the view of any person under circumstances in which such conduct is likely to cause affront or alarm to the other person (Section 18-7-302 (1), C.R.S.)	Class 1 misdemeanor	No	
Soliciting for child prostitution	Soliciting another person, arranging a meeting, or directing another person to a place for the purpose of child prostitution (Section 18-7-402 (2), C.R.S.)	Class 3 felony	Yes	Yes
Pandering of a child	• Inducing a child to commit prostitution by threatening or intimidating the child (Section 18-7-403 (2), C.R.S.)	Class 2 felony	Yes	Yes
	• Arranging or offering to arrange a situation in which a child may practice prostitution (Section 18-7-403 (2), C.R.S.)	Class 3 felony	Yes	
Procurement of a child	Giving, transporting, providing, or making available a child or offering to transport, provide, or make available a child for the purpose of child prostitution (Section 18-7-403.5, C.R.S.)	Class 3 felony	Yes	Yes
Keeping a place of child prostitution	Exercising control over a place which offers seclusion or shelter for the prostitution of or by a child (Section 18-7-404 (2), C.R.S.)	Class 3 felony	Yes	Yes
Pimping of a child	Living on or being supported by money or other things of value procured by a child through prostitution (Section 18-7-405, C.R.S.)	Class 3 felony	Yes	Yes
Inducement of child prostitution	Inducing a child by word or action (other than menacing or criminal intimidation) to engage in prostitution (Section 18-7-405.5 (2), C.R.S.)	Class 3 felony	Yes	Yes
Patronizing a prostituted child	Engaging in a sexual act with a child prostitute; or entering or remaining in a place of prostitution with intent to engage in a sexual act (Section 18-7-406 (1), C.R.S.)	Class 3 felony	Yes	Yes

Table 1 — Sex Offenses in Colorado

Offense Title	Description of Offense and Citation	Level of Offense	Subject to Lifetime Supervision	Required Registration *
Offenses Relating to Morals (cont.)				
Sexually explicit material harmful to children	• Selling sexually explicit materials to a child (Section 18-7-502 (1), C.R.S.)	Class 2 misdemeanor	No	No
	• Selling an admission ticket or allowing a child admission to a sexually explicit visual presentation (Section 18-7-502 (2), C.R.S.)	Class 2 misdemeanor	No	
	• Falsely representing oneself as 18 years of age or older in order to procure sexually explicit materials or gain admission to a sexually explicit visual presentation (Section 18-7-502 (3), C.R.S.)	Class 2 misdemeanor	No	
	• Falsely representing oneself as the parent or guardian of a child in order to procure sexually explicit materials or gain admission to a sexually explicit visual presentation for that child (Section 18-7-502 (4), C.R.S.)	Class 2 misdemeanor	No	
	• Exhibiting, exposing, or displaying sexually explicit material publicly in a business or other commercial establishment possibly frequented by children (Section 18-7-502 (5), C.R.S.)	Class 2 misdemeanor	No	
Sexual conduct in a penal institution	• Sexual intrusion or penetration between an employee or contract employee of a criminal justice facility, or an individual who performs work functions in a criminal justice facility or for the Department of Corrections, and a person who is in lawful custody in a criminal justice facility (Section 18-7-701 (3), C.R.S.)	Class 5 felony	No	No
	• Sexual contact between an employee or contract employee of a criminal justice facility, or an individual who performs work functions in a criminal justice facility or for the Department of Corrections, and a person who is in lawful custody in a criminal justice facility (Section 18-7-701 (4), C.R.S.)	Class 6 felony	No	
	• Sexual intrusion or penetration between volunteer of a criminal justice facility, or an individual who performs volunteer functions in a criminal justice facility or for the Department of Corrections, and a person who is in lawful custody in a criminal justice facility (Section 18-7-701 (4), C.R.S.)	Class 6 felony	No	
	• Sexual contact between volunteer of a criminal justice facility, or an individual who performs volunteer functions in a criminal justice facility or for the Department of Corrections, and a person who is in lawful custody in a criminal justice facility (Section 18-7-701 (5), C.R.S.)	Class 1 misdemeanor	No	

* Any person convicted of an offense in any other state or jurisdiction for which the person is required to register in that state or jurisdiction, or would be required to register if convicted of the same offense in Colorado, is required to register in Colorado for as long as that individual is a temporary or permanent resident of Colorado (Section 16-22-103 (3), C.R.S.).

THE STATUTE OF LIMITATIONS AND SENTENCING PROVISIONS FOR SEX OFFENSES

What is the Statute of Limitations for Sex Offenses?

The Colorado statute of limitations (Section 16-5-401, C.R.S) requires law enforcement personnel to commence prosecution for criminal offenses within a set period of time. The time period is different, depending on the specific crime and its circumstances. Murder, kidnaping, treason, specified sex offenses against children, and forgery have no time limit for commencement of prosecution. Most other felonies must be prosecuted within three years of the commission of the crime. The time limit is suspended for up to five years while an offender is absent from the state of Colorado.

Felony sex offenses. Sex offenses, especially those committed against children, have their own categories of limitations to prosecution. The time period during which an individual may be prosecuted for a felony sex offense is ten years after the commission of the crime. Prosecution must commence within ten years after the victim reaches the age of 18 for the felony offenses of sexual assault and unlawful sexual contact when the victim is under the age of 18 at the time of the offense. Prosecution for failure to register as a sex offender against children must commence within three years of the commission of the crime. There is no statute of limitations for specified sex offenses against children.¹

Misdemeanor sex offenses. Prosecution of misdemeanor offenses charged under the sex assault (Section 18-3-402 (3), C.R.S.) and unlawful sexual contact (Section 18-3-404 (2), C.R.S.) statutes must be commenced within five years of the commission of the crime. All other misdemeanor sex offenses must be prosecuted within 18 months of the commission of the crime.

DNA exception. In a case where a sex offense is reported to law enforcement officials within ten years of the commission of the crime and the identity of the offender is determined by DNA evidence, there is no time limit for commencing prosecution (except for the specified sex offenses against children for which there is no statute of limitations).

What are the Sentencing Provisions for Sex Offenses?

The penalty for any criminal offense depends on the class of crime. An offense may include several different classes of crime, depending on the specific circumstances. The crime classification level for each of Colorado's sex offenses are listed in Table 1. The sentencing requirements for each crime classification level are listed in Appendix A.

¹ 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; 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.

Not all individuals who are convicted of a sex offense receive a sentence of incarceration. Some offenders receive deferred prosecution,² deferred sentencing,³ probation and community corrections. These alternatives can be used at the discretion of the court.

What are the Provisions of Colorado's Lifetime Supervision of Sex Offenders Act?

Colorado Sex Offender Lifetime Supervision Act of 1998. In 1998, the legislature established a law under which individuals who commit sex offenses could receive treatment and supervision for the rest of their lives. In the act's legislative declaration, the General Assembly found that the majority of individuals who commit these crimes are likely to commit similar crimes in the future if they are not supervised. The highlights of the act's provisions are indeterminate sentencing for certain sex offenders, treatment for sex offenders, and intensive supervision of sex offenders in the community.

Indeterminate sentencing. Under the act, certain sex offenses are subject to special sentencing guidelines. These offenses include:

- sexual assault;
- felony unlawful sexual contact;
- sexual assault on a child;
- sexual assault on a child by one in a position of trust;
- Internet sexual exploitation of a child;
- aggravated sexual assault on a client by a psychotherapist;
- enticement of a child;
- Internet luring of a child
- incest;
- aggravated incest;
- patronizing a prostituted child;
- trafficking in children;
- sexual exploitation of children;
- procurement of a child for sexual exploitation;
- soliciting for child prostitution;
- pandering of a child;
- procurement of a child;
- keeping a place of child prostitution;
- pimping of a child; or
- inducement of child prostitution.

² In a deferred prosecution, charges against a defendant are dismissed after successful completion of court-ordered probation.

³ In deferred sentencing, the defendant is allowed to withdraw a guilty plea and charges are dismissed after successful completion of court-ordered probation.

The special sentencing guidelines for these offenses include the following.

- Courts may sentence sex offenders to an indeterminate prison term of at least the minimum of the presumptive range for the offenses previously listed and a maximum of the offender's natural life.
- Individuals who commit offenses that constitute a crime of violence⁴ may be sentenced to an indeterminate prison term of at least the midpoint of the presumptive range for the specific offense and a maximum of the offender's natural life.
- Habitual sex offenders and HIV-positive individuals, who were aware of their HIV-positive status prior to committing a sex offense, may be sentenced to an indeterminate prison sentence of at least three times the upper limit of the presumptive range for the specific offense and a maximum of the offender's natural life.

Treatment. Sex offenders who are involved in the criminal justice system are required to undergo appropriate treatment as part of any sentence to probation, community corrections, incarceration, or parole. Offenders involved in the system are subject to evaluation and identification to determine what treatment is appropriate. Recommendations from the Department of Corrections (DOC), the Judicial Department, the Department of Human Services, and the Division of Criminal Justice are considered in the evaluation and identification process. It is the responsibility of the Sex Offender Management Board to create a procedure for the evaluation and identification of sex offenders, as well as to certify treatment facilities and personnel.

Supervision of probationers. Courts are authorized to sentence sex offenders to probation for an indeterminate period of time unless the individuals are convicted of a crime of violence or are considered habitual offenders against children. In those cases, the offender must be sentenced to incarceration for an indeterminate period of time, as explained above. The indeterminate probation scheme is as follows:

Level of Offense	Minimum Probation Period	Maximum Probation Period
Class 2 felony	20 years	Offender's natural life
Class 3 felony	20 years	Offender's natural life
Class 4 felony	10 years	Offender's natural life
Crime of violence	Probation not an option	
Habitual sex offender	Probation not an option	

Any sex offender who is sentenced to probation is required to participate in an "intensive supervision probation program" for an indeterminate period of time as a condition of probation.⁵ The offenders in the intensive program must receive the highest level of supervision available to

⁴ Any sexual offense during which the offender used threat, intimidation, or force against the victim, or caused bodily harm to the victim.

⁵ Section 18-1.3-1004(2)(a), C.R.S.

probationers. The court also has the option to sentence a sex offender to a residential community corrections program for a minimum period of time, to be specified by the court. At the end of the minimum period, the offender may or may not be released to the intensive supervision probation program.

Supervision of parolees. The DOC has established an intensive supervision program for sex offenders who have served a prison term and have subsequently been released on parole. Sex offenders who appear before the parole board may be required, as a condition of parole, to participate in the supervision program. Any individual who is convicted of failure to register as a sex offender is also required to participate.

The supervision program for parolees or probationers is designed to minimize risk to the public, to the greatest extent possible, and may include:

- severely limited activities;
- daily contact between the sex offender and the parole or probation officer;
- monitored curfew;
- home visitation;
- employment visitation and monitoring;
- drug and alcohol screening;
- treatment referrals and monitoring; and
- payment of restitution.

Conditions for release on parole. Each sex offender who has completed the minimum period of an indeterminate sentence is entitled to a hearing of the parole board. The parole board determines whether or not a sex offender may be released on parole. In making that determination, the board considers whether the sex offender has successfully progressed in treatment, whether the individual would present an undue risk to the community, and whether there is a strong and reasonable probability that the individual will repeat the crime.

A parolee's supervision level is subject to reduction by the offender's parole officer at any time. The parole officer may also return a sex offender to the intensive supervision parole program if the parole officer believes that an increased level of supervision is necessary to protect the public safety.

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. The definitions of four sex offense classifications in Colorado law 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 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 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;
- 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 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.

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.

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 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.

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.

Weld County and Larimer County are two local jurisdictions that currently post information about sex offenders online.

Are sex offenders restricted from living within a certain distance from areas or facilities frequented by children? Colorado law does not restrict sex offenders from living within a certain proximity of schools, parks, or other areas frequented by children.

The Sex Offender Management Board is charged with evaluating, adopting guidelines, and making recommendations to the legislature about the residency location of sex offenders in the community, particularly in relation to schools and child care facilities (Section 16-11.7-103 (4)(j), C.R.S.). The board sets guidelines for community supervision of sex offenders. The guidelines prohibit sex offenders from being near schools, parks, or other places frequented by children unless a supervising officer, in consultation with a supervising team, approves the visit in advance. The guidelines also prohibit contact with children without prior approval. However, the guidelines do not specify a distance that sex offenders must stay away from schools, parks, or other areas frequented by children. A sex offender's parole or probation officer uses the guidelines to approve the location of the sex offender's residence.

Pursuant to statutory requirements, the board published a report in March 2004 on safety issues raised by living arrangements for and location of sex offenders in the community. Highlights of the board's findings are listed below.

- Few sex offenders in the board's sample study of 130 sex offenders were living within 1,000 feet of a school or child care center. (The study did not quantify the number of sex offenders who lived within 1,000 feet of a school or child care center.)
- It is almost impossible in densely populated areas for a sex offender to find a residence that is not close in proximity to a school or child care facility. Regulating the location of sex offender residences is not guaranteed to keep them from re-offending, and should not be used as a means to control sex offender recidivism.
- Treatment and surveillance were found to be better tools for community supervision of sex offenders than regulating where sex offenders can reside.

APPENDIX A

Sentencing Scheme for Felonies Committed on or After July 1, 1993

Class of Crime	Minimum Sentence	Maximum Sentence	Mandatory Parole
Class 1	Life Imprisonment	Death	—
Class 2	8 years \$5,000 fine	24 years \$1,000,000	5 years
Class 3 (extraordinary risk of harm*)	4 years \$3,000 fine	16 years \$750,000	5 years
Class 3	4 years \$3,000 fine	12 years \$750,000	5 years
Class 4 (extraordinary risk of harm*)	2 years \$2,000 fine	8 years \$500,000	3 years
Class 4	2 years \$2,000 fine	6 years \$500,000	3 years
Class 5 (extraordinary risk of harm*)	1 year \$1,000 fine	4 years \$100,000	2 years
Class 5	1 year \$1,000 fine	3 years \$100,000	2 years
Class 6 (extraordinary risk of harm*)	1 year \$1,000 fine	2 years \$100,000	1 year
Class 6	1 year \$1,000 fine	18 months \$100,000	1 year

* Felony crimes that present an extraordinary risk of harm to society include the following: aggravated robbery; child abuse; unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance; any Section 18-1.3-406 crime of violence; stalking; and the sale or distribution of materials to manufacture a controlled substance.

Sentencing Scheme for Misdemeanors

Class of Misdemeanor	Minimum Sentence	Maximum Sentence
Class 1 (extraordinary risk of harm*)	6 months jail or \$500 fine, or both	24 months jail or \$5,000 fine, or both
Class 1	6 months jail or \$500 fine, or both	18 months jail or \$5,000 fine, or both
Class 2	3 months jail or \$250 fine, or both	12 months jail or \$1,000 fine, or both
Class 3	\$50 fine	6 months jail or \$750 fine, or both
Class 1 Traffic Offense	10 days jail or \$100 fine, or both	12 months jail or \$1,000 fine, or both
Class 2 Traffic Offense	10 days jail or \$10 fine, or both	90 days jail or \$300 fine, or both
Unclassified	Specified in statute	Specified in statute

* Misdemeanor offenses which present an extraordinary risk of harm to society include the following: third degree assault; sexual assault; second degree sexual assault as it existed prior to July 1, 2000; unlawful sexual contact; third degree sexual assault as it existed prior to July 1, 2000; child abuse; second and all subsequent violations of a protection order; and misdemeanor failure to register as a sex offender.

APPENDIX B

Definitions of Sex Offenses Colorado Revised Statutes (2005)

Enticement of a child — Section 18-3-305 (2), C.R.S., defines "enticement of a child" to mean any person who, with the intent to commit sexual assault or unlawful sexual contact, invites or persuades or attempts to invite or persuade a child under the age of 15 to enter a vehicle, building, room, or secluded place.

Unlawful sexual offense — Section 18-3-411 (1), C.R.S., defines "unlawful sexual offense" as:

- enticement of a child;
- sexual assault when the victim at the time of the act is a child under the age of 15;
- sexual assault in the first degree, as it existed prior to July 1, 2000, when the victim at the time of the act is a child under the age of 15;
- sexual assault in the second degree, as it existed prior to July 1, 2000, when the victim at the time of the act is a child under the age of 15, or as it existed prior to July 1, 2000, when the victim is under the age of 15 and the actor is at least four years older than the victim;
- unlawful sexual contact, when the victim at the time of the act is a child under the age of 15;
- sexual assault in the third degree, as it existed prior to July 1, 2000, when the victim at the time of the act is a child under the age of 15;
- sexual assault on a child;
- sexual assault on a child by one in a position of trust;
- aggravated incest;
- trafficking in children;
- sexual exploitation of a child;
- procurement of a child for sexual exploitation;
- 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 child prostitution;
- patronizing a prostituted child;
- Internet luring of a child;
- Internet sexual exploitation of a child; or
- criminal attempt, conspiracy, or solicitation to commit any of the above acts.

Unlawful sexual behavior — Section 16-22-102 (9), C.R.S., defines "unlawful sexual behavior" as any of the following offenses, or criminal attempt, conspiracy, or solicitation to commit any of the following offenses:

- sexual assault;
- sexual assault in the first degree, as it existed prior to July 1, 2000;
- sexual assault in the second degree, as it existed prior to July 1, 2000;
- unlawful sexual contact;
- sexual assault in the third degree, as it existed prior to July 1, 2000;
- sexual assault on a child;
- sexual assault on a child by one in a position of trust;
- sexual assault on a client by a psychotherapist;
- enticement of a child;
- incest;
- aggravated incest;
- trafficking in children;
- sexual exploitation of children;
- procurement of a child for sexual exploitation;
- 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 child prostitution;
- patronizing a prostituted child;
- engaging in sexual conduct in a penal institution;
- wholesale promotion of obscenity to a minor;
- promotion of obscenity to a minor;
- Internet luring of a child; or
- Internet sexual exploitation of a child.

Sexually violent predator — Section 18-3-414.5 (1), C.R.S., defines "sexually violent predator" as an offender:

- who is 18 years of age or older on date of the offense, or who is under 18 years of age on the date of the offense but is tried as an adult;
- who has been convicted on or after July 1, 1999, of one of the following offenses or attempt, solicitation, or conspiracy to commit one of the following offenses committed on or after July 1, 1997: sexual assault or sexual assault in the first degree, as it existed prior to July 1, 2000; sexual assault in the second degree, as it existed prior to July 1, 2000; unlawful sexual contact or sexual assault in the third degree, as it existed prior to July 1, 2000; sexual assault on a child; or sexual assault on a child by one in a position of trust;
- whose victim was a stranger or a person with whom the offender established or promoted a relationship primarily for the purpose of sexual victimization; and
- who, based upon the results of a risk assessment screening instrument developed by the Colorado Division of Criminal Justice in consultation with and approved by the Sex Offender Management Board is likely to subsequently commit one or more of the offenses specified above under the circumstances described above.

APPENDIX C

When Sex Offenders Can First Petition for Removal From the Sex Offender Registry

Conviction or Disposition	When Sex Offenders are First Eligible to Petition for Removal from the Registry or Internet Posting
Class 1, 2, or 3 felony	20 years after: • discharge from incarceration or commitment to the Department of Human Services; or • final release from the jurisdiction of the court.
Class 4, 5, or 6 felony, or Class 1 misdemeanor of unlawful sexual contact or 3 rd degree sexual assault as it existed prior to 7/1/00	10 years after: • discharge from incarceration or commitment to the Department of Human Services; or • final release from the jurisdiction of the court.
All other misdemeanors	5 years after final release from the jurisdiction of the court.
Deferred judgment and sentence, or adjudication	After successful completion of the sentence.
Under the age of 18 at the time of adjudication	After successful completion of the sentence.
Failure to register	Full compliance with all registration requirements for at least one year; can petition only to discontinue posting on the Internet for failure to register.

Source: Section 16-22-113, C.R.S.