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# Sex Offenses and the Statutory Consequences

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This document was prepared by Terri Morrison, First Assistant Legal Counsel for the Colorado Judicial Department and it is intended to demonstrate the numerous combinations that are created by the consequences of a plea or finding of guilty to each sex offense. It is not intended to be legal advice or exhaustive of all issues pertaining to sex offenders in Colorado. The following categories are used to demonstrate the combinations:

- Sex Offender Registration Requirements;
- Lifetime/Indeterminate sentences to DOC or Probation—For offenses occurring on or after November 1, 1998;
- Sex Offender Intensive Supervision Probation (SOISP) as part of a Probation sentence; and
- Sexually Violent Predator (SVP) assessment and findings.

The chart does not cover all sentencing outcomes that may be controlled by factors such as:

- A defendant's non-eligibility for probation based on prior criminal offense (§18-1.3-201);
- Effects of defendant's criminal history on sentencing;
- Crimes of Violence (COV) (unless the offense cross-references to the COV statute); Charges of Habitual Offender or Habitual Sex Offender against Children

**NOTE:** All SOISP eligible offenders are not subject to lifetime/indeterminate but all persons who are subject to a lifetime/indeterminate sentence are subject to SOISP if sentenced to probation.

The chart and the summary after have been modified to reflect changes made by:

SB 06-22, adding attempts, conspiracy, solicitation and deferreds to SVP.

HB 06-1011, Internet Luring and Internet Sexual Exploitation and

HB 06-1092, F6 Sexual Exploitation of Children

**SB 07-114, adding F5 internet luring to registration**

**HB 10-1334, Changes to Indecency crimes**

**SB 10-128, Invasion of Privacy**

**HB 11-1278, Sex Offender Registration**

**HB 12-1310, Removing indeterminate sentence possibility from certain crimes**

**SB 13-229, Making the SOSE discretionary if no probation or already serving DOC**

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<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102, et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
<b>1</b>	<p><b>§18-3-402(5)(a)(I, II or III) Sexual Assault F2, aided and abetted or COV;</b></p> <p><b>§18-3-405 Sexual Assault on a child F3</b></p> <p><b>§18-3-405.3 Sexual Assault on a child Position of Trust; Pattern F3</b></p>	<p>Quarterly/Lifetime regardless of SVP determination</p> <p>§16-22-108(1)(d)(I)</p>	<p>Mandatory DOC (§18-1.3-1004(1)(b) minimum: midpoint in presumptive range to life, See also §18-1.3-401(8)(e.5)</p>	No- not Probation Eligible	Yes—eligible offense, Probation sends for Evaluation; court makes Determination Based on evaluation
<b>2</b>	<b>§18-7-403 Pandering of a Child (intimidation/menacing) F2 or F3</b>	<p>Annually / 20 years from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(a)</p>	NO as of 6/7 / 2012	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
2 (cont'd)	<p>§18-6-402 Trafficking in Children F3</p> <p>§18-6-403 Sexual Exploitation of Children F3</p> <p>§18-6-404 Procurement of Child for Sexual Exploitation F3</p> <p>§18-7-402 Soliciting for Child Prostitution F3</p> <p>§ 18-7-403.5 Procurement of a Child F3</p> <p>§18-7-404 Keeping a place of Child Prostitution F3</p>	<p>Annually / 20 years from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(a)</p>	NO as of 6/7 /2012	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
2 (cont'd)	<p>§18-7-405 Pimping of a Child F3</p> <p>§ 18-7-405.5 Inducement of Child Prostitution F3</p> <p>Attempt, Conspiracy, Solicitation to Commit Above Category (2) Offenses resulting in F3</p>	<p>Annually / 20 years from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(a)</p>	NO as of 6/7 /2012	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
3	Attempt, Conspiracy, Solicitation of the F2 §18-3-402 Sexual Assault, resulting in an F3	Quarterly/Lifetime if SVP; Otherwise, annually /20 years from discharge before eligible to petition the court for removal § 16-22-108(1)(d)(I) §16-22-113(1)(a)	Yes; DOC: min. presumptive to life Probation: 20 to life	Yes	Yes
4	§18-3-402 Sexual Assault F3  §18-3-405.3 Sexual Assault on Child Position of Trust, Victim < 15 F3	Quarterly/Lifetime regardless of SVP determination § 16-22-108(1)(d)(I)	Yes;  DOC: min. presumptive to life  Probation: 20 to life	Yes	Yes
5	Attempt, Conspiracy, Solicitation	Annual / 20 years	Yes;	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i>§16-22-102. et. seq. Frequency/Length of Time</i> -	<u>Indeterminate Sentence</u> <i>§18-1.3-1003 et. seq. Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</i>	<u>SOISP</u> <i>§18-1.3-1007</i> -	<u>SVP</u> <i>§18-3-414.5 Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</i>
	<p>of any other F2 offense resulting in an F3</p> <p>§ 18-3-305 Enticement of a Child 2<sup>nd</sup> with special circumstances F3</p> <p>§18-7-406 Patronizing a Prostituted Child F3</p>	<p>from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(a)</p>	<p>DOC: min. presumptive to life</p> <p>Probation: 20 to life</p>		
6	<p>§18-6-302 Aggravated Incest F3</p>	<p>Quarterly/ Lifetime</p> <p>§ 16-22-108(1)(d)(I)</p>	<p>Yes;</p> <p>DOC: min. presumptive to life</p> <p>Probation: 20 to life</p>	Yes	No
7	<p>Attempt, Conspiracy, Solicitation of -SVP offense resulting in an F4</p>	<p>Quarterly/Lifetime if SVP otherwise,</p> <p>Annually / 10 years</p>	<p>Yes;</p> <p>DOC: min presumptive to life</p>	Yes	Yes

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i><u>§16-22-102. et. seq.</u></i> <i><u>Frequency/Length of Time</u></i> -	<u>Indeterminate Sentence</u> <i><u>§18-1.3-1003 et. seq.</u></i> <i><u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u></i>	<u>SOISP</u> <i><u>§18-1.3-1007</u></i> -	<u>SVP</u> <i><u>§18-3-414.5</u></i> <i><u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u></i>
		from discharge before eligible to petition the court for removal  §16-22-113(1)(b)	Probation: 10 to life		
8	<b>Attempt, Conspiracy, Solicitation of other F3 Lifetime offense resulting in an F4</b>	Annually / 10 years from discharge before eligible to petition the court for removal  §16-22-113(1)(b)	Yes;  DOC: min presumptive to life  Probation: 10 to life	Yes	No
9	<b>Attempt, Conspiracy, Solicitation</b>	Annually / 10 years from discharge	No	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
	of non-SVP, non-Lifetime F3 offense resulting in an F4	before eligible to petition the court for removal  §16-22-113(1)(b)			
10	<p>§18-3-402 Sexual Assault F4</p> <p>§18-3-405 Sexual Assault on a Child F4</p> <p>§18-3-405.3 Sexual Assault on a Child Position of Trust Victim &gt; 15 F4</p>	<p>Quarterly/Lifetime</p> <p>§ 16-22-108(1)(d)(l)</p>	<p>Yes;</p> <p>DOC: min. presumptive to life</p> <p>Probation: 10 to life</p>	Yes	Yes
11	<p>§18-3-405.5 Aggravated Sexual Assault on a Client by a Psychotherapist F4</p> <p>§18-6-301, Incest F4</p>	<p>Quarterly/Lifetime</p> <p>§ 16-22-108(1)(d)(l)</p>	<p>Yes;</p> <p>DOC: minimum presumptive to life</p>	Yes	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i><u>§16-22-102. et. seq.</u></i> <i><u>Frequency/Length of Time</u></i> -	<u>Indeterminate Sentence</u> <i><u>§18-1.3-1003 et. seq.</u></i> <i><u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u></i>	<u>SOISP</u> <i><u>§18-1.3-1007</u></i> -	<u>SVP</u> <i><u>§18-3-414.5</u></i> <i><u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u></i>
			Probation: 10 to life		
12	<b>§18-3-404(1.5) or (2) Unlawful Sexual Contact F4</b>	Quarterly/Lifetime if found SVP; otherwise  10 years from discharge before eligible to petition the court for removal  §16-22-113(1)(b)	Mandatory DOC, minimum midpoint presumptive range	No, not probation eligible	Yes
13	<b>§18-3-404(1)(g) Unlawful Sexual Contact F4</b>	Quarterly/Lifetime IF found SVP; otherwise 10 years from discharge	Yes;  DOC: min. presumptive range	Yes	Possibly. If convicted under subsection (2) then yes; if just (1)(g)

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i>§16-22-102. et. seq. Frequency/Length of Time</i> -	<u>Indeterminate Sentence</u> <i>§18-1.3-1003 et. seq. Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</i>	<u>SOISP</u> <i>§18-1.3-1007</i> -	<u>SVP</u> <i>§18-3-414.5 Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</i>
		before eligible to petition the court for removal  § 16-22-108(1)(d)(l);	Probation: 10 to life		then ask the court
14	<b>§ 18-3-305 Enticement of a Child F4</b>  <b>§ 18-3-306, Internet Luring, F4</b>  <b>§18-3-405.4, Internet Sexual Exploitation, F4</b>	Annually / 10 years from discharge before eligible to petition the court for removal  §16-22-113(1)(b)	Yes;  DOC: min. presumptive range  Probation: 10 to life	Yes	No
15	<b>18-6-403 Sexual Exploitation of a Child F4</b>  <b>Attempt, Conspiracy, Solicitation to Commit Category (2) Offenses resulting in F4</b>	Annually / 10 years from discharge before eligible to petition the court for removal	NO as of 6/7/2012	Yes	N

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i>§16-22-102. et. seq. Frequency/Length of Time</i> -	<u>Indeterminate Sentence</u> <i>§18-1.3-1003 et. seq. Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</i>	<u>SOISP</u> <i>§18-1.3-1007</i> -	<u>SVP</u> <i>§18-3-414.5 Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</i>
		§16-22-113(1)(b)			
16	Attempt, Conspiracy, Solicitation of an SVP offense resulting in F5	Quarterly/Lifetime IF found SVP; otherwise annually /10 years from discharge before eligible to petition the court for removal  § 16-22-108(1)(d)(I); §16-22-113(1)(b)	No	Yes, Offenses on or after May 30, 2001 and conviction or plea on or after July 1, 2001	Yes

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
17	<p><b>Attempt, Conspiracy, Solicitation of ANY other F4 offense resulting in an F5</b></p> <p><b>§ 18-7-302 Indecent Exposure F6</b></p> <p><b>§ 18-7-102 (2.5) Promotion of Obscenity to a Minor F6</b></p>	<p>Annually / 10 years from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(b)</p>	No	Yes; Offenses on or after May 30, 2001 and conviction or plea on or after July 1, 2001	No
18	<p><b>§ 18-6-403 Sexual Exploitation of a Child F6</b></p> <p><b>§18-3-405.6 Invasion of Privacy for Sexual Gratification F6— (not effective until July 1, 2012)</b></p>	<p>Annually/ 10 years from discharge before eligible to petition the court for removal</p>	No	Yes; Applies to offenses committed on or after July 1, 2006	No
19	<b>§ 18-7-701 Sexual Conduct in Correctional Institution F5</b>	<p>Annually / 10 years from discharge</p>	No	Not clear. No eval. Is required under	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
	<b>Attempt, Conspiracy, Solicitation of Sexual Conduct in Correctional Institution resulting in an F6</b>  <b>§ 18-7-701 Sexual Conduct in Correctional Institution F6</b>	before eligible to petition the court for removal  §16-22-113(1)(b)	No	§16-11.7-102 et. seq. and §18-1.3-1007 says SOISP is applic. To any felony offense of “unlawful sexual behavior” but does not define or relate it to the registration definition.	No
<b>20</b>	<b>§ 18-3-412.5 Failure to Register 2<sup>nd</sup> or Subsequent F5</b>  <b>§18-3-412.5 Failure to Register for a Felony Offense F6</b>	Length of time and frequency for offense originally requiring registration	No	Court MAY sentence to SOISP, no longer mandatory—  HB 11-1278	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
21	§ 18-3-306 Internet Luring F5— not for purposes of sexual contact or exploitation	Registration requirement is pursuant to §16-22-103(1)(a) as amended by SB 07-114	No	Not clear, statute says SOISP applies to any felony offense that involves unlawful sexual behavior but that term is only defined in the registration statute. Note: if the court finds an underlying factual basis of the F4 internet luring then evaluation and SOISP would apply	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
22	<b>§18-3-402 (1)(e) Sexual Assault M1</b>	Lifetime §16-22-113(3)(b)(I)  but §16-22-108 (1)(d)(II)(A) says only applies to FELONY Sexual Assault	No;  (extraordinary risk maximum 2 years jail)	No. If sentenced to probation, max. 5 years	Yes. <u>People v. Tuffo</u> , 209 P.3d 1226, (Colo. App. 2009)
23	<b>Attempt, of an SVP offense resulting in an M2</b>	If SVP – lifetime; otherwise annually/ 5 years from discharge before eligible to petition the court for removal	No	No  But if sentenced to probation maximum 5 years  §18-1.3-202(1)	Yes under statute
24	<b>§18-3-405.5 Sexual Assault on a</b>	Quarterly/ Lifetime	No	No	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
	<b>Client by a Psychotherapist M1</b>	§ 16-22-108(1)(d)(l)		But if sentenced to probation maximum 5 years §18-1.3-202(1)	
<b>25</b>	<b>§18-3-404 Unlawful Sexual Contact M1</b>	Annually / 10 years from discharge before eligible to petition the court for removal §16-22-113(1)(b)	No	No But if sentenced to probation maximum 5 years §18-1.3-202(1)	<i>Possibly.</i> If convicted of subsection (2) but this section only classifies as misdm. or felony; if other sections, consult with the judge.
<b>26</b>	<b>§ 18-6-403 Sexual Exploitation of Children M1</b>  <b>§18-7-302 Indecent Exposure M1</b>  <b>§ 18-7-701 Sexual Conduct in a Correctional Institution by a Volunteer M1</b>	Annually / 5 years from discharge before eligible to petition the court for removal §16-22-113(1)(c) Annually / 5 years	No	No But if sentenced to probation maximum 5 years §18-1.3-202(1)	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
	<p><b>§18-7-102 Wholesale Promotion of Obscenity to a Minor M1</b></p> <p><b>§18-7-301 Public Indecency (only the M1)</b></p> <p><b>§18-3-406.6 Invasion of Privacy for Sexual Gratification M1—not effective until July 1, 2012</b></p>	<p>from discharge before eligible to petition the court for removal</p> <p>§16-22-113(1)(c)</p> <p>)</p>	No	<p>No</p> <p>But if sentenced to probation maximum 5 years</p> <p>§18-1.3-202(1)</p>	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
27	<b>§18-3-412.5 Failure to Register for Misd. Offense M1</b>	Length of time and frequency for offense originally requiring registration	No extraordinary risk crime, maximum 2 years jail if imposed	No  But if sentenced to probation maximum 5 years  §18-1.3-202(1)	No
28	<b>Attempt, Conspiracy, Solicitation of Sexual Assault 18-3-402(1)(e) resulting in an M2</b>	Lifetime §16-22-113(3)(b)(I)  but §16-22-108 (1)(d)(II)(A) says only applies to FELONY Sexual Assault	No;  (extraordinary risk maximum 2 years jail)	No  But if sentenced to probation maximum 5 years  §18-1.3-202(1)	Yes; <i>People v. Tuffo</i>

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
29	Attempt, Conspiracy, Solicitation of any other M1 that results in an M2	Annually / 5 years from discharge before eligible to petition the court for removal	No	No  But if sentenced to probation maximum 5 years  §18-1.3-202(1)	No
30	Deferred SVP offense (including attempt, conspiracy, and solicitation)	Annually / Quarterly Registration but court may discontinue registration upon dismissal of the case  §16-22-113(1.3)(a)	No	Yes; Offenses on or after May 30, 2001 and conviction or plea on or after July 1, 2001	Yes

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
31	Deferred non-SVP felony offense	Annually / Quarterly Registration but court may discontinue registration upon dismissal of the case  §16-22-113(1.3)(a)	No	Yes; Offenses on or after May 30, 2001 and conviction or plea on or after July 1, 2001	No
32a	<b>No Underlying Factual Basis</b> Before accepting plea to a non-unlawful sexual behavior offense EITHER DA must stipulate that no underlying factual basis exists when pleading off of unlawful sexual behavior offense §16-22-103(2)(c)(II)(A) OR,	No	No	No	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
<b>32b</b>	<b>Underlying Factual Basis</b> Before accepting plea to a non-unlawful sexual behavior offense Defendant must admit underlying factual basis of unlawful sexual behavior §16-22-103(2)(c)(II)(B)	Registration is in accordance with the level of offense to which defendant pleads guilty	No	<b>If sentencing offense is a felony</b> Yes; Offenses on or after May 30, 2001 and conviction or plea on or after July 1, 2001  NO, If sentencing offense is misdemeanor	No
<b>33</b>	<b>Juvenile Felony</b> Any unlawful sexual behavior, adjudication or deferred for offense that would be a felony if committed by an adult	If under 18 at adjudication or disposition, the court may order to discontinue registration and remove name after successful completion and discharge from	No	No	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u> <i>§16-22-102. et. seq. Frequency/Length of Time</i> -	<u>Indeterminate Sentence</u> <i>§18-1.3-1003 et. seq. Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</i>	<u>SOISP</u> <i>§18-1.3-1007</i> -	<u>SVP</u> <i>§18-3-414.5 Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</i>
		sentence §16-22-113(1.3)(b)(I)			
34	Juvenile Misdemeanor § 18-3-404, Unlawful Sexual Contact M1 §18-7-302, Indecent Exposure, M1	First offense, and juv. has received an <b>evaluation</b> that recommends <b>exemption</b> then MAY <b>petition</b> the court for exemption from registration; court must find that registration would be <b>unfairly punitive</b> and the juv. does <b>not pose a significant risk</b> to community;	No	No	No

<u>Category</u>	<u>Offense</u>	<u>Registration</u>  <u>§16-22-102. et. seq.</u> <u>Frequency/Length of Time</u> -	<u>Indeterminate Sentence</u> <u>§18-1.3-1003 et. seq.</u> <u>Indeterminate DOC or Minimum Years Probation for Offenses Committed on or after November 30, 1998</u>	<u>SOISP</u>  <u>§18-1.3-1007</u> -	<u>SVP</u> <u>§18-3-414.5</u> <u>Offenses Committed On or After July 1, 1997 but Convictions on or after July 1, 1999</u>
		§16-22-103(5)  Otherwise register until sentence completed then eligible to have court order to stop registration			
35	<b>Second Degree Kidnapping involving a sexual offense in violation of 18-3-302(3)(a), F2</b>	Annually / 20 years from discharge before eligible to petition the court for removal  §16-22-113(1)(a)	No	No, unless underlying basis of unlawful sexual behavior	No

## OTHER:

**Lifetime Registration:** In addition to those listed above, an adult with one or more convictions or adjudications for unlawful sexual behavior must register for life regardless of the level of current or prior offenses. E.g. 2 misdemeanor convictions for unlawful sexual behavior = lifetime registration. §16-22-113(3)(c)

## **Genetic Testing/ DNA:**

- Applies to all offenders listed in the chart, FELONIES AND MISDEMEANORS (except for failure to register) and *includes juveniles*. DNA statutes-- §16-11-102.4 (adult) and §19-2-925.6 (juvenile) include deferred and underlying factual basis of unlawful sexual behavior and cross-references the registration statute as definition of underlying factual basis.
    - Note: No **other** offenses requiring DNA indicate applicability to deferred sentence, **ONLY** sex offenses.
  - For juveniles, **ONLY** sex offenders were subject to genetic testing until the implementation of SB 06-150 July 1, 2007. Then all felons are to be DNA tested (both adults and juveniles).
- \*\*NOTE:** For ADULTS who are *ARRESTED* for a felony sex offense, they are supposed to be DNA tested at the time of arrest.

## **Evaluation/ Sex Offense Specific Evaluation (SOSE):**

- §16-11.7-101 et.seq. governs which sex offenders must be evaluated. “Sex Offender” for purposes of evaluation/treatment includes all offenders listed above who are required to register **EXCEPT convictions for:**
  - \*\* Engaging in Sexual Conduct in a Correctional Institution §18-7-701
  - \*\* Wholesale Promotion of Obscenity to a Minor §18-7-102(1.5)
  - \*\* Promotion of Obscenity to a Minor §18-7-102(2.5)
  - \*\* F5 Internet Luring of a Child §18-3-306(3)
- §16-11.7-102(2)(a)(II) Sex offender also includes a person convicted of ANY criminal offense if person has a prior conviction for sex offense in Colorado, in another jurisdiction, or has ANY HISTORY (History is not defined but can include a deferred that was successfully completed, INCLUDING a juvenile deferred adjudication that occurred *any time* prior to the criminal OFFENSE for which the defendant is being sentenced People v. Boling; or could be an underlying factual basis offense—court may have to

decide); the prior sex offense may be an offense for which the defendant was never required to register due to the date of that offense.

- If the crime for which the offender is being sentenced is a Title 42 traffic offense (such as DUI/DWAI) AND the person has a prior conviction or history of sex offending behavior, an evaluation is not required, but may be ordered by the court. **(HB 12-1310)**
- If the history of sex offending behavior was a misdemeanor sex offense, committed while the person was a juvenile, then the evaluation is not required but may be ordered by the court. **(HB 12-1310)**
- **2013:** If the Court accepts a stipulation that the defendant will not receive probation or the defendant is already serving a sentence in the DOC, the evaluation is not required but may be ordered by the court. **(SB 13-229)**
- NOTE: The “ANY OFFENSE with a prior sex offense” offender could be subject to the SOSE and treatment but not be subject to SOISP as the SOISP statutes do not address.
- A person before the court on the offense of FAILURE TO REGISTER AS A SEX OFFENDER would have to undergo an evaluation because they fall under the “ANY OFFENSE with a prior sex offense” discussed above unless one of the exceptions applies.
- The evaluation must be done at the PSIR stage even if the sex offender is not probation eligible. Even though §16-11.7-104 indicates the evaluation only has to be done if a sex offender is being considered for probation, the Colorado Court of Appeals, in *People v. Lenzini*, 986 P.2d 980 (Colo. App. 1999) ruled that this section, read with §16-11.7.-105 (treatment based on evaluation as part of sentence) requires the evaluation to be done by probation at PSIR, unless one of the exceptions described above applies.
- JUVENILES, before the court on a juvenile case are subject to evaluation on or after July 1, 2002 this includes, adjudication, deferred, and underlying factual basis.
- As of March 26, 2007, Pursuant to HB 07-1171 the PSIR and risk assessment on a sex offender as defined at §16-11.7-102(2) shall not be waived unless one of the exception described above applies; however pursuant to HB 12-1310, the evaluation is good for 2 years if there has been no material change.

### Deferred Sentences and Deferred Adjudications

- HB 12-1310 allows for a deferred sentence (adult) to be extended for an additional time on a sex offense (listed in §16-11.7-102(3)) for up to 2 years for good cause shown and when the DA and the defendant consent to the extension. This now allows the possibility of 6 years on a felony and 4 years on a misdemeanor deferred sex offense. Effective for offenders placed on a deferred on or after June 7, 2012
- HB 12-1310 allows for a deferred adjudication (juvenile) to be for up to 2 years initially on a sex offense as listed in §16-11.7-102(3), and upon a showing of good cause the court may continue the case for additional time, not to exceed 5 years from the

date of the order deferring adjudication. Effective for offenders placed on a deferred on or after June 7, 2012.