

Summary of Legislation Concerning Sex Offenders, 2008 Session (as June 17, 2008)

Signed into Law	
<p>Bill Number: HB 08-1132</p> <p>Sponsors: <i>Rep. Stafford</i> <i>Sen. Keller</i></p> <p>The bill allows the Youthful Offender System (YOS) in the Department of Corrections to provide adult sex offender treatment services to inmates who are at least 18 years old. Current law requires the YOS to provide juvenile sex offender treatment to these offenders. The bill also adds mental health treatment to the list of services the YOS may provide to inmates without parental consent.</p>	<p>Short Title: Youthful Offender System Treatment</p> <p>Status: Signed into Law</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 40px;">The bill will not affect the overall workload of the YOS, but will provide more flexibility. As a result, it will not impact state revenues or expenditures.</p>
<p>Bill Number: HB 08-1217</p> <p>Sponsors: <i>Rep. Roberts</i> <i>Sen. Shaffer</i></p> <p>The bill prohibits a law enforcement agency, prosecuting officer, or other governmental official from asking a sexual assault victim to take a polygraph test as a condition of proceeding with a criminal investigation or prosecution. The bill also prohibits a law enforcement agency, prosecuting officer, or other governmental official from making the performance of a forensic medical examination, including the collection of evidence, contingent upon a victim's willingness to participate in the criminal justice process. The bill requires the Division of Criminal Justice in the Department of Public Safety, and not the victim, to pay for such a medical examination.</p> <p>In the event that a medical exam is conducted at the request of the victim and not that of law enforcement, medical personnel are required by the bill to contact the law enforcement agency in whose jurisdiction the crime occurred regarding storage of the evidence. The evidence must be stored for at least 2 years by the law enforcement agency.</p>	<p>Short Title: Sexual Assault Victim Protections</p> <p>Status: Signed into Law</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 40px;">The 2005 Stop Violence Against Women Act (VAWA) provides federal funds from the U.S. Department of Justice to states for distribution for competitive grants to organizations that address violence against women. In the summer of 2007, the Department of Justice changed its regulations with regard to the VAWA program. Specifically, it threatened to cut off funding unless states were able to certify certain things by January 1, 2009. This bill will allow Colorado to make such a certification by the deadline and it seeks to ensure that the flow of federal VAWA funds will continue. State agencies and local governments are currently receiving these grants, and with the passage of this bill, will continue to do so. Thus, the bill does not impact state revenues or expenditures.</p>

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<p>Bill Number: HB 08-1247</p> <p>Sponsors: <i>Rep. Primavera</i> <i>Sen. Veiga</i></p> <p>Except in cases where the court was not required to enter such an order when imposing the original sentence, the bill requires the Department of Corrections to notify the court if it receives a court order that <i>does not</i> include a determination by the court regarding a defendant's status as a sexually violent predator (SVP). The bill applies to defendants who are convicted of offenses under Colorado's SVP statute. The bill authorizes the department to return the defendant to the custody of the county sheriff for delivery to the court to make the required SVP determination.</p>	<p>Short Title: SVP Evaluations Return to Court</p> <p>Status: Signed into Law</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 20px;">This bill will not increase the workload of the courts because the requirement that the court make a finding or enter an order regarding the defendant's SVP status for convictions under the SVP statute exists in current law. As such, it will not impact state revenues or expenditures.</p>
<p>Bill Number: SB 08-106</p> <p>Sponsors: <i>Sen. Schulteis</i> <i>Rep. Lundberg</i></p> <p>The bill requires the court to modify an order granting parenting time when a parent has been convicted in another state or jurisdiction of an offense that, if committed in Colorado, would constitute murder, a sex offense against a child, or child abuse. The offending parent is required submit to a sex-offense-specific evaluation and a parental risk assessment in Colorado and the court shall consider the recommendations of the evaluation and the assessment when making a modification to an order granting parenting time.</p>	<p>Short Title: Sex Offender Child Custody Cases</p> <p>Status: Signed into Law</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 20px;">Under current law, objections concerning the parenting time of a person with a criminal history are already allowed. This legislation clarifies that the crimes need not only have taken place in Colorado. The bill is not expected to increase either the number of cases in the courts or the length of time needed to hear cases regarding parenting time. Consequently, the bill is not expected to impact state or local government expenditures or revenue. The bill is therefore assessed as having no fiscal impact.</p>
<p>Bill Number: SB 08-235</p> <p>Sponsors: <i>Sen. Bacon</i> <i>Rep. A. Kerr</i></p> <p>The bill adds the act of masturbation, as defined in the bill, to the existing offense of public indecency</p>	<p>Short Title: Public Indecency</p> <p>Status: Signed into Law</p> <p><i>State Appropriations:</i></p> <p style="padding-left: 20px;">Public indecency is a petty offense. A significant number of additional cases in this classification can be processed by the Judicial Branch within existing appropriations. Thus, as this bill does not affect state or local revenue or expenditures, it is assessed as having no fiscal impact.</p>

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Signed into Law (cont.)	
<p>Bill Number: SB 08-237</p> <p>Sponsors: <i>Sen. Bacon</i> <i>Rep. T. Carroll</i></p> <p>The bill clarifies that an individual must register as a sex offender in Colorado if he or she is convicted of an offense in another jurisdiction that would require the individual to register as a sex offender in that jurisdiction.</p>	<p>Short Title: Sex Offender Registration Convictions</p> <p>Status: Signed into Law</p> <p>State Appropriations:</p> <p style="padding-left: 40px;">The bill does not make substantive changes, but rather clarifies existing law. It is not expected to have a measurable impact on any state departments. As such, this bill does not affect state or local revenues or expenditures and is assessed as having no fiscal impact.</p>
<p>Bill Number: SB 08-238</p> <p>Sponsors: <i>Sen. Bacon</i> <i>Rep. King</i></p> <p>The bill prohibits the reproduction of sexually exploitative material as part of the proceedings in a criminal case. The bill specifies that the court will deny a request by the defendant to copy or reproduce any sexually exploitative material as long as the prosecuting attorney makes the material reasonably available to the defendant. The prosecuting attorney must provide ample opportunity for inspection, viewing, and examination, at the prosecutor's office or a law enforcement facility, of the material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.</p>	<p>Short Title: Copying Sexually Exploitative Material</p> <p>Status: Signed into Law</p> <p>State Appropriations:</p> <p style="padding-left: 40px;">The bill is not expected to affect state or local government expenditures or revenue and is therefore assessed as having no fiscal impact.</p>
Postponed Indefinitely	
<p>Bill Number: HB 08-1011</p> <p>Sponsors: <i>Rep. Green</i> <i>None</i></p> <p>The bill removed the statute of limitations for victims of sexual assault on a child to file civil actions against either the perpetrator of the sexual assault or a third party. The bill also specifically allowed victims to:</p> <ul style="list-style-type: none"> • file a civil action against an individual who is deceased or incapacitated; • recover damages for other than those for medical treatment and counseling when filing a civil action more than 15 years after turning 18 years old; • file a civil claim by July 1, 2010 (a two-year window from the effective date of the bill), even if they were originally barred from filing such an action by the applicable statute of limitations. 	<p>Short Title: Sex Abuse of Child Civil Actions</p> <p>Status: Postponed Indefinitely in House Judiciary</p> <p>State Appropriations:</p> <p style="padding-left: 40px;">The filing of additional civil cases as a result of this bill was expected to be minimal and absorbable within the existing resources of the Judicial Branch. The bill was not expected to impact any other state government agency.</p>

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Postponed Indefinitely (cont.)	
<p>Bill Number: HB 08-1188</p> <p>Sponsors: <i>Rep. Swalm</i> <i>None</i></p> <p>The bill would have required all sex offenders to provide e-mail addresses, instant messaging identities, and chat room identities to local law enforcement agencies when registering as required under the Colorado Sex Offender Registration Act. Current law only requires offenders convicted of sex offenses against children to provide this information. The bill would have made failure to provide such information a qualification for the offense of failure to register as a sex offender, which is a class 5 or class 6 felony, depending on the circumstances.</p>	<p>Short Title: Sex Offender Registration Email</p> <p>Status: Postponed Indefinitely in House Judiciary</p> <p>State Appropriations:</p> <p style="padding-left: 20px;">In FY 2008-09, the bill would have required a General Fund transfer of \$250,330 to the Capital Construction Fund and an appropriation of the same amount from that fund to the Corrections Expansion Reserve Fund. It also would have required a five-year appropriation to cover construction and operating costs for any new felony offenders incarcerated as a result of the bill.</p>
<p>Bill Number: HB 08-1219</p> <p>Sponsors: <i>Rep. B. Gardner</i> <i>Sen. Cadman</i></p> <p>The bill required sexually violent predators sentenced to probation or released on parole to be monitored using a global positioning system (GPS) device.</p>	<p>Short Title: GPS Monitoring of Certain Sex Offenders</p> <p>Status: Postponed Indefinitely in House Appropriations</p> <p>State Appropriations:</p> <p style="padding-left: 20px;">In FY 2008-09, the bill required a General Fund transfer of \$8,761,550 to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also required a \$3,920,414 General Fund appropriation to the Department of Corrections and a \$4,122,194 General Fund appropriation to the Judicial Branch with 34.7 FTE. Other five-year appropriations to cover capital construction and operating costs in the Department of Corrections for the period from FY 2009-10 to FY 2012-13 were required.</p>

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Postponed Indefinitely (cont.)	
<p>Bill Number: SB 08-125</p> <p>Sponsors: <i>Sen. Harvey</i> <i>Rep. Stephens</i></p> <p>The bill made changes to certain offenses concerning sexually explicit materials and performances that are harmful to children. The bill defined material to include pictures, drawings, video or digital recordings, or other written or electronic representations of nudity or sexual activity. The bill also established standards for what constitutes harmful materials or performances and it provided affirmative defenses to prosecution. Under current law, disseminating material that is harmful to minors is a Class 2 misdemeanor.</p> <p>The bill also created a new Class 4 felony of luring a child with material that is harmful to a minor. A person would have committed this crime if he or she had the intent to commit sexual assault or unlawful sexual contact with a child under 15 years of age and he or she lured the child to enter a vehicle, building, room, or secluded place with the enticement of sexually explicit materials. A second offense of luring a child with material that is harmful to a minor would have been a Class 3 felony.</p>	<p>Short Title: Sexual Material Harmful to Children</p> <p>Status: Postponed Indefinitely in Senate Appropriations</p> <p>State Appropriations:</p> <p>In FY 2008-09, the bill required a General Fund transfer of \$125,165 to the Capital Construction Fund and an appropriation of the same amount from that fund to the Corrections Expansion Reserve Fund. The bill also required appropriations to cover construction and operating costs in the amount of \$322,746 for FY 2009-10 through FY 2012-13.</p>
<p>Bill Number: SB 08-195</p> <p>Sponsors: <i>Sen. Ward</i> <i>Rep. Rice</i></p> <p>The bill made it a class 1 felony, under certain circumstances, to commit sexual assault on a child who is under the age of 12 when the perpetrator was previously convicted of an aggravated sexual offense against a child. A class 1 felony is punishable by life in prison without parole or the death penalty.</p>	<p>Short Title: Death Penalty Child Rape Under 12</p> <p>Status: Postponed Indefinitely in Senate Appropriations</p> <p>The bill would have required a General Fund appropriation in FY 2008-09 to the Judicial Branch of \$189,074 and 2.6 FTE for allocation to the trial courts. Additionally, the Office of the State Public Defender would have required a General Fund appropriation of \$427,209 and 4.9 FTE in FY 2008-09.</p>