

**JUVENILE JUSTICE TASK FORCE**  
**Judicial Workgroup**

RECOMMENDATION PRESENTED TO THE CCJJ  
October 12, 2012

**FY13-JJ #3 Revise the Sex Offender Deregistration Statute to allow a person who *committed* an offense while under 18 years of age to deregister as an adult after successful completion of the terms of the sentence.**

**Recommendation:**

Revise the language of the current section of the sex offender deregistration statute 16-22-113 (1)(e) as follows:

(e) **Except as otherwise provided in section (1.3)(b)(II)**, if the person was younger than eighteen years of age at the time of disposition or adjudication, **the commission of the offense**, after the successful completion of and discharge from ~~the~~ **a juvenile sentence or disposition**, and if the person prior to such time has not been subsequently convicted ~~of~~ **or has a pending prosecution for**, ~~of~~ unlawful sexual behavior or of any other offense, the underlying factual basis of which involved unlawful sexual behavior and the court did not issue an order either continuing the duty to register or discontinuing the duty to register pursuant to paragraph (b) of subsection (1.3) of this section. Any person petitioning pursuant to this paragraph (e) may also petition for an order removing his or her name from the sex offender registry. In determining whether to grant the order, the court shall consider whether the person is likely to commit a subsequent offense of or involving unlawful sexual behavior. The court shall base its determination on recommendations from the person's probation or community parole officer, the person's treatment provider, and the prosecuting attorney for the jurisdiction in which the person was tried and on the recommendations included in the person's presentence investigation report. In addition, the court shall consider any written or oral testimony submitted by the victim of the offense for which the petitioner was required to register. Notwithstanding the provisions of this subsection (1), a juvenile who files a petition pursuant to this section may file the petition with the court to which venue is transferred pursuant to section 19-2-105, C.R.S., if any.

**Discussion:**

Under the current statute the determinative factor for deregistration is the person's age at the time of the disposition or adjudication. With the proposed change, the determinative factor is the age at the date of the alleged act. This change means that a person who was charged while under 18 years of age, but was not adjudicated or sentenced until over 18, would have the benefits of deregistration that juveniles have.

Such a change would prevent a situation where a person well into adulthood, who was charged with a sexual offense that s/he committed while under 18, would not be eligible for

deregistration as a juvenile even though that person was a juvenile at the time of the commission of the offense. The current statute creates situations such as this: a 14 year old who commits an offense, but that offense is not reported until 5 years later is charged. Because the person is now an adult, s/he must register as an adult and therefore has impediments to employment, education, and housing opportunities.

In 2011, 175 Public Defender clients, statewide, were charged with sexual offenses in Juvenile court. Forty-Three of those cases reached disposition after the young person turned 18. Those 43 people would be held to the registration requirements of the adult registration statute, for offenses that occurred when they were between the ages of 10 and 18.

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**FY13-JJ #4    Revise 18-8-208 Escapes to provide that an adjudicated juvenile who turns 18 while in custody, but is not in custody in a state-operated facility, commits a class 3 misdemeanor rather than a felony if convicted of an escape.**

**Recommendation:**

**Add 18-8-208(4.1) to provide:**

(4.1) A person commits a class 3 misdemeanor if, having been ~~adjudicated~~ committed to DYC for a delinquent act and is over 18 years of age, escapes from a staff secure facility as defined in C.R.S. 19-1-103(101.5) other than ~~the Adams Youth Services Center, the Gilliam Youth Services Center, the Foote Youth Services Center, The Mount View Youth Services Center, the Platte Valley Youth Services Center, the Grand Mesa Youth Services Center, the Lookout Mountain Youth Services Center, the Pueblo Youth Services Center, the Spring Creek Youth Services Center, and the Zebulon Pike Youth Services Center~~, a state-operated locked facility.

**Amend 18-8-208(9) to provide:**

(9) The minimum sentences provided by sections 18-1.3-401, 18-1.3-501, and 18-1.3-503, respectively, for violation of the provisions of this section shall be mandatory, and the court shall not grant probation or a suspended sentence, in whole or in part; except that the court may grant a suspended sentence if the court is sentencing a person to the youthful offender system pursuant to section 18-1.3-407. ~~The provisions of this section, however, shall not apply to section (4.1) of this statute.~~

**Delete 18-8-208(10):**

~~(10) Any person held in a staff secure facility, as defined in section 19-1-103 (101.5), C.R.S., shall be deemed to be in custody or confinement for purposes of this section.~~

**Amend 18-8-210.1 to provide:**

Persons in custody or confinement - juvenile offenders.

For the purposes of this part 2, any reference to custody, confinement, charged with, held for, convicted of, a felony, misdemeanor, or petty offense shall be deemed to include a juvenile who is detained or committed for the commission of an act which would constitute such a felony, misdemeanor, or petty offense if committed by an adult or who is the subject of a

petition filed pursuant to article 2 of title 19, C.R.S., alleging the commission of such a delinquent act or a juvenile who has been adjudicated a juvenile delinquent as provided for in article 2 of title 19, C.R.S., for an act which would constitute a felony, misdemeanor, or petty offense if committed by an adult.

**Discussion:**

Adjudicated juveniles who are committed to the Division of Youth Corrections often turn 18 while in custody. There are times when such persons are placed outside a secure facility in a group home or similar placement. Under the current statute, when a person walks away from such a group home and does not return, that person may be charged with a class three felony even though that person has never been convicted of any underlying felony.

The purpose of these proposed changes is to eliminate that scenario and provide that a person in such a situation would still have criminal liability, but could only be convicted of a class three misdemeanor. This would avoid a situation where a young adult could be placed in the Department of Corrections for such an escape, but would have never been convicted of an underlying felony. The changes would also provide that the sentencing judge would have discretion to grant or deny probation since the recommended changes to section (9) eliminate the mandatory sentence requirement for the “walk-away” juvenile.

C.R.S. 18-8-208(4.1) would not make all escapes by an adjudicated person a misdemeanor. The statute would still provide that persons who escaped from the facilities listed in section (4.1) could suffer a felony conviction.

It is recommended that C.R.S. 18-8-208(10) should be eliminated because it is contrary to the purpose of the recommendation.

**References for citations in above statutes:**

C.R.S. 19-1-103(101.5) “Staff secure facility” means a group facility or home at which each juvenile is continuously under staff supervision and at which all services, including but not limited to education and treatment are provided on site. A staff secure facility may or may not be a locked facility.

C.R.S. 18-8-208 Escapes