

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 11-0171.01 Brita Darling

HOUSE BILL 11-1138

HOUSE SPONSORSHIP

Gardner B., Barker, Casso, Waller

SENATE SPONSORSHIP

Morse, Bacon, Boyd, Jahn, King S.

House Committees

Judiciary
Appropriations

Senate Committees

State, Veterans & Military Affairs
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE SEX OFFENDER MANAGEMENT BOARD, AND MAKING**
102 **AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill extends the sex offender management board (board) for 10 years to September 1, 2020, and revises the board's duties.

Section 1: The bill amends the language of the legislative declaration for the board, as well as language in other sections in the statutory article that governs the board (article) to refer to juvenile

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 29, 2011

SENATE
Amended 2nd Reading
April 28, 2011

HOUSE
Amended 3rd Reading
March 9, 2011

HOUSE
Amended 2nd Reading
March 7, 2011

offenders as "juveniles who have committed sexual offenses" rather than labeling juveniles as sex offenders.

Section 2: The bill adds the definitions "adult sex offender" and "juvenile who has committed a sexual offense" for purposes of the article.

Section 3: The bill reorganizes the provisions relating to the appointment of board members. The board members appointed by a specific appointing authority are listed under the appointing authority, and all board members will serve 4-year terms.

Under current law, the executive director of the department of public safety appoints the board's presiding officer. The bill requires that the members of the board elect a chair and vice-chair of the board from among the members of the board and establishes 2-year terms for the presiding officers.

The bill recreates and reenacts, with amendments, the provisions relating to the board's creation and duties. With respect to the board's duties, the bill:

- ! Requires the board to prescribe a standardized procedure for the evaluation and identification of adult sex offenders based upon the knowledge that sexually offending behavior is repetitive and that there is no way to ensure that adult sex offenders with the propensity to commit sexual offenses will not reoffend;
- ! Requires the board to develop a procedure for evaluating and identifying reliably lower-risk sex offenders;
- ! Removes the requirement that the board develop and implement standards for a system of programs for the treatment of adult sex offenders. This change is mirrored in provisions relating to juveniles.
- ! Adds family counseling and shared living arrangements to the continuum of treatment programs that may be used for adult sex offenders. This change is mirrored in provisions relating to juveniles.
- ! Clarifies that, to the extent possible, treatment programs may be accessed by all offenders, including those with mental illness and co-occurring disorders. This change is mirrored in provisions relating to juveniles.
- ! Clarifies that the board's duty to research and analyze the effectiveness of evaluation, identification, and treatment policies and procedures for adult sex offenders. The board shall review and research factors that contribute to reoffense and the containment model and its effective application and shall prepare and present a report to the judiciary committees of the general assembly, on or before December 1, 2011, concerning the board's research and analysis.

- ! Includes within the board's duties the existing requirement that the board collaborate with other agencies to establish standards for community entities that provide supervision and treatment for adult sex offenders who have developmental disabilities;
- ! Clarifies that the board and the individual board members shall be immune from liability for the good faith performance of all of the boards's duties set forth in statute and not just those duties set forth in the statutory section related to the sex offender management board's duties; and
- ! Requires the board to collaborate with certain agencies and advocacy groups to develop best-practice guidelines for providing services to persons with developmental disabilities with identified high-risk sex offending behaviors and to provide the guidelines to providers and to community centered boards.

Sections 4 and 5: The bill amends the statutory language to refer to juvenile offenders as "juveniles who have committed sexual offenses" rather than labeling juveniles as sex offenders.

Section 6: The bill repeals and reenacts, with amendments, the statutory section that addresses sex offender treatment. The bill grants the board specific authority to develop an application and review process for the approval of persons to be placed on a list of persons who may provide sex offender evaluation, treatment, and polygraph services pursuant to the article (list), as well as a renewal process for those persons.

The bill establishes a formal process to review complaints and grievances against providers who provide services pursuant to the article. The board shall refer all complaints or grievances against providers to the department of regulatory agencies (DORA). The appropriate mental health board in DORA (DORA board) shall review all complaints or grievances received by DORA or referred to DORA by the board. The DORA board shall investigate the complaints and grievances and shall provide the board with the results of the investigation and advise the board of any disciplinary action the DORA board takes with respect to a professional license. The board may take any disciplinary action permitted by law against the individual or entity, including but not limited to removing the individual from the list. The board may determine the requirements for a provider to be placed on the list after the provider has been removed from the list for disciplinary or other reasons. The board shall review and investigate complaints or grievances against individuals providing polygraph services pursuant to the article.

Section 7: The bill requires the board to report annually to the judiciary committees of the general assembly regarding information pertaining to the treatment of sex offenders, and the report may include the board's recommendations for legislation related to treatment of sex

offenders.

Sections 8 and 9: The bill makes conforming amendments.

Sections 10 and 11: The bill requires DORA to conduct a sunset review of the board prior to the new termination date.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 16-11.7-101, Colorado Revised Statutes, is
3 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4 **16-11.7-101. Legislative declaration.** (1) THE GENERAL
5 ASSEMBLY FINDS THAT TO PROTECT THE PUBLIC AND TO WORK TOWARD
6 THE ELIMINATION OF SEXUAL OFFENSES, IT IS NECESSARY TO
7 COMPREHENSIVELY EVALUATE, IDENTIFY, TREAT, MANAGE, AND MONITOR
8 ADULT SEX OFFENDERS WHO ARE SUBJECT TO THE SUPERVISION OF THE
9 CRIMINAL JUSTICE SYSTEM AND JUVENILES WHO HAVE COMMITTED
10 SEXUAL OFFENSES WHO ARE SUBJECT TO THE SUPERVISION OF THE
11 JUVENILE JUSTICE SYSTEM.

12 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
13 NECESSARY TO CREATE A PROGRAM THAT ESTABLISHES EVIDENCE-BASED
14 STANDARDS FOR THE EVALUATION, IDENTIFICATION, TREATMENT,
15 MANAGEMENT, AND MONITORING OF ADULT SEX OFFENDERS AND
16 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AT EACH STAGE OF
17 THE CRIMINAL OR JUVENILE JUSTICE SYSTEM, TO PREVENT OFFENDERS
18 FROM REOFFENDING AND ENHANCE THE PROTECTION OF VICTIMS AND
19 POTENTIAL VICTIMS. ■ ■ ■ THE GENERAL ASSEMBLY DOES NOT INTEND TO
20 IMPLY THAT ALL OFFENDERS CAN OR WILL POSITIVELY RESPOND TO
21 TREATMENT.

22 **SECTION 2.** 16-11.7-102 (1) and (2) (a) (IV), Colorado Revised
23 Statutes, are amended, and the said 16-11.7-102 is further amended BY

1 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
2 read:

3 **16-11.7-102. Definitions.** As used in this article, unless the
4 context otherwise requires:

5 (1) ~~"Board" means the sex offender management board created in~~
6 ~~section 16-11.7-103.~~ "ADULT SEX OFFENDER" MEANS A PERSON WHO
7 HAS BEEN CONVICTED, AS DESCRIBED IN SUBPARAGRAPHS (I) TO (III) OF
8 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, OF A SEX OFFENSE.

9 (1.3) "BOARD" MEANS THE SEX OFFENDER MANAGEMENT BOARD
10 CREATED IN SECTION 16-11.7-103.

11 (1.5) "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE" MEANS
12 A JUVENILE WHO HAS BEEN ADJUDICATED AS A JUVENILE OR WHO
13 RECEIVES A DEFERRED ADJUDICATION ON OR AFTER JULY 1, 2002, FOR AN
14 OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE, AS DEFINED IN
15 SUBSECTION (3) OF THIS SECTION, IF COMMITTED AS AN ADULT, OR A
16 JUVENILE WHO HAS COMMITTED ANY OFFENSE, THE UNDERLYING FACTUAL
17 BASIS OF WHICH INVOLVES A SEX OFFENSE.

18 (2) (a) "Sex offender" means any person who is:

19 ~~(IV) Adjudicated as a juvenile or who receives a deferred~~
20 ~~adjudication on or after July 1, 2002, for an offense that would constitute~~
21 ~~a sex offense if committed by an adult or for any offense, the underlying~~
22 ~~factual basis of which involves a sex offense~~ A JUVENILE WHO HAS
23 COMMITTED A SEXUAL OFFENSE.

24 **SECTION 3.** 16-11.7-103, Colorado Revised Statutes, is
25 RECREATED AND REENACTED, WITH AMENDMENTS, to read:

26 **16-11.7-103. Sex offender management board - creation -**
27 **duties - repeal.** (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF

1 PUBLIC SAFETY A SEX OFFENDER MANAGEMENT BOARD THAT SHALL
2 CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD
3 SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN
4 AND RURAL AREAS OF THE STATE AND A BALANCE OF EXPERTISE IN ADULT
5 AND JUVENILE ISSUES RELATING TO PERSONS WHO COMMIT SEX OFFENSES.
6 THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF THE FOLLOWING
7 PERSONS WHO SHALL BE APPOINTED AS FOLLOWS:

8 (a) THE CHIEF JUSTICE OF THE SUPREME COURT SHALL APPOINT
9 THREE MEMBERS AS FOLLOWS:

10 (I) ONE MEMBER WHO REPRESENTS THE JUDICIAL DEPARTMENT;

11 (II) ONE MEMBER WHO IS A DISTRICT COURT JUDGE; AND

12 (III) ONE MEMBER WHO IS A JUVENILE COURT JUDGE OR JUVENILE
13 COURT MAGISTRATE;

14 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
15 CORRECTIONS SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
16 DEPARTMENT OF CORRECTIONS;

17 (c) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HUMAN
18 SERVICES SHALL APPOINT THREE MEMBERS AS FOLLOWS:

19 (I) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF HUMAN
20 SERVICES AND WHO HAS RECOGNIZABLE EXPERTISE IN CHILD WELFARE
21 AND CASE MANAGEMENT;

22 (II) ONE MEMBER WHO REPRESENTS THE DIVISION OF YOUTH
23 CORRECTIONS IN THE DEPARTMENT OF HUMAN SERVICES; AND

24 (III) ONE MEMBER WHO IS A PROVIDER OF OUT-OF-HOME
25 PLACEMENT SERVICES WITH RECOGNIZABLE EXPERTISE IN PROVIDING
26 SERVICES TO JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

27 (d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC

1 SAFETY SHALL APPOINT SIXTEEN MEMBERS AS FOLLOWS:

2 (I) ONE MEMBER WHO REPRESENTS THE DIVISION OF CRIMINAL
3 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY;

4 (II) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH
5 PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF
6 ADULT SEX OFFENDERS;

7 (III) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH
8 PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF
9 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

10 (IV) ONE MEMBER WHO IS A MEMBER OF A COMMUNITY
11 CORRECTIONS BOARD;

12 (V) ONE MEMBER WHO IS A PUBLIC DEFENDER WITH
13 RECOGNIZABLE EXPERTISE RELATED TO SEXUAL OFFENSES;

14 (VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT WITH
15 RECOGNIZABLE EXPERTISE IN ADDRESSING SEXUAL OFFENSES AND
16 VICTIMIZATION;

17 (VII) THREE MEMBERS WHO ARE RECOGNIZED EXPERTS IN THE
18 FIELD OF SEXUAL ABUSE AND WHO CAN REPRESENT SEXUAL ABUSE
19 VICTIMS AND VICTIMS' RIGHTS ORGANIZATIONS;

20 (VIII) ONE MEMBER WHO IS A CLINICAL POLYGRAPH EXAMINER;

21 (IX) ONE MEMBER WHO IS A PRIVATE CRIMINAL DEFENSE
22 ATTORNEY WITH RECOGNIZABLE EXPERTISE RELATED TO SEXUAL
23 OFFENSES;

24 (X) ONE MEMBER WHO IS A COUNTY DIRECTOR OF SOCIAL
25 SERVICES, APPOINTED AFTER CONSULTATION WITH A STATEWIDE GROUP
26 REPRESENTING COUNTIES; AND

27 (XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS OR

1 MEMBERS OF THE GOVERNING COUNCIL FOR A JURISDICTION THAT IS A
2 CONTIGUOUS CITY AND COUNTY, ONE OF WHOM SHALL REPRESENT AN
3 URBAN OR SUBURBAN COUNTY AND ONE OF WHOM SHALL REPRESENT A
4 RURAL COUNTY, APPOINTED AFTER CONSULTATION WITH A STATEWIDE
5 GROUP REPRESENTING COUNTIES;

6 (e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
7 ATTORNEYS' COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
8 INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS RECOGNIZABLE
9 EXPERTISE IN PROSECUTING SEXUAL OFFENSES; AND

10 (f) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE
11 MEMBER WHO HAS EXPERIENCE WITH JUVENILES WHO HAVE COMMITTED
12 SEXUAL OFFENSES AND WHO ARE IN THE PUBLIC SCHOOL SYSTEM.

13 (2) THE MEMBERS OF THE BOARD SHALL ELECT PRESIDING
14 OFFICERS FOR THE BOARD, INCLUDING A CHAIR AND VICE CHAIR, FROM
15 AMONG THE BOARD MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)
16 OF THIS SECTION, WHICH PRESIDING OFFICERS SHALL SERVE TERMS OF TWO
17 YEARS. BOARD MEMBERS MAY RE-ELECT A PRESIDING OFFICER.

18 (3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF
19 THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT
20 THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF
21 PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1,
22 2011, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR
23 HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A
24 MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS OF THE BOARD
25 SHALL SERVE WITHOUT COMPENSATION.

26 (4) **Duties of the board.** THE BOARD SHALL CARRY OUT THE
27 FOLLOWING DUTIES:

1 (a) **Standards for identification and evaluation of adult sex**
2 **offenders.** THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
3 APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY
4 ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH
5 DEVELOPMENTAL DISABILITIES. THE PROCEDURES SHALL PROVIDE FOR AN
6 EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND
7 RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT BASED UPON
8 EXISTING RESEARCH DEMONSTRATING THAT SEXUALLY OFFENDING
9 BEHAVIOR IS OFTEN REPETITIVE, AND THAT THERE IS CURRENTLY NO WAY
10 TO ENSURE THAT ADULT SEX OFFENDERS WITH THE PROPENSITY TO
11 COMMIT SEXUAL OFFENSES WILL NOT REOFFEND. BECAUSE THERE ARE
12 ADULT SEX OFFENDERS WHO CAN LEARN TO MANAGE UNHEALTHY
13 PATTERNS AND LEARN BEHAVIORS THAT CAN LESSEN THEIR RISK TO
14 SOCIETY IN THE COURSE OF ONGOING TREATMENT, MANAGEMENT, AND
15 MONITORING, THE BOARD SHALL DEVELOP A PROCEDURE FOR EVALUATING
16 AND IDENTIFYING, ON A CASE-BY-CASE BASIS, RELIABLY LOWER-RISK SEX
17 OFFENDERS. THE BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF
18 INTERVENTION FOR ADULT SEX OFFENDERS, WHICH METHODS HAVE AS A
19 PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND
20 POTENTIAL VICTIMS AND WHICH ARE APPROPRIATE TO THE ASSESSED
21 NEEDS OF THE PARTICULAR OFFENDER, SO LONG AS THERE IS NO
22 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

23 (b) **Guidelines and standards for treatment for adult**
24 **offenders.** THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
25 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT ADULT SEX
26 OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL
27 DISABILITIES, WHICH GUIDELINES AND STANDARDS CAN BE USED IN THE

1 TREATMENT OF OFFENDERS WHO ARE PLACED ON PROBATION,
2 INCARCERATED WITH THE DEPARTMENT OF CORRECTIONS, PLACED ON
3 PAROLE, OR PLACED IN COMMUNITY CORRECTIONS. PROGRAMS
4 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
5 DEVELOPED PURSUANT TO THIS PARAGRAPH (b) SHALL BE AS FLEXIBLE AS
6 POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH ADULT SEX
7 OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS AND
8 POTENTIAL VICTIMS. PROGRAMS SHALL INCLUDE A CONTINUING
9 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
10 AVAILABLE TO AN ADULT SEX OFFENDER AS HE OR SHE PROCEEDS
11 THROUGH THE CRIMINAL JUSTICE SYSTEM. TREATMENT OPTIONS SHALL BE
12 DETERMINED BY A CURRENT RISK ASSESSMENT AND EVALUATION AND
13 MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING,
14 INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT,
15 INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, OR TREATMENT
16 IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO
17 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS
18 PARAGRAPH (b) SHALL, TO THE EXTENT POSSIBLE, BE ACCESSIBLE TO ALL
19 ADULT SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM, INCLUDING
20 THOSE OFFENDERS WITH MENTAL ILLNESS AND CO-OCCURRING DISORDERS.
21 THE PROCEDURES FOR EVALUATION, IDENTIFICATION, TREATMENT, AND
22 MONITORING DEVELOPED PURSUANT TO THIS SUBSECTION (4) SHALL BE
23 IMPLEMENTED ONLY TO THE EXTENT THAT MONEYS ARE AVAILABLE IN THE
24 SEX OFFENDER SURCHARGE FUND CREATED IN SECTION 18-21-103 (3),
25 C.R.S.

26 (c) **Allocation of moneys in sex offender surcharge fund.** THE
27 BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE ALLOCATION OF

1 MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE FUND CREATED
2 PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE JUDICIAL
3 DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION OF
4 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE
5 DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL
6 COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER
7 SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE
8 DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) TO IDENTIFY,
9 EVALUATE, AND TREAT ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
10 COMMITTED SEXUAL OFFENSES. THE GENERAL ASSEMBLY MAY
11 APPROPRIATE MONEYS FROM THE SEX OFFENDER SURCHARGE FUND IN
12 ACCORDANCE WITH THE PLAN.

13 (d) **Risk assessment screening instrument.** THE BOARD SHALL
14 CONSULT ON, APPROVE, AND REVISE AS NECESSARY THE RISK ASSESSMENT
15 SCREENING INSTRUMENT DEVELOPED BY THE DIVISION OF CRIMINAL
16 JUSTICE TO ASSIST THE SENTENCING COURT IN DETERMINING THE
17 LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL COMMIT ONE OR MORE
18 OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5 (1) (a) (II), C.R.S.,
19 UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-414.5 (1) (a)
20 (III), C.R.S. IN CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER
21 RESEARCH ON ADULT SEX OFFENDER RISK ASSESSMENT AND SHALL
22 CONSIDER AS ONE ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER
23 WHO SUFFERS FROM PSYCHOPATHY OR A PERSONALITY DISORDER THAT
24 MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT
25 PREDATORY OFFENSES. ■ ■ ■ IF A DEFENDANT IS FOUND TO BE A
26 SEXUALLY VIOLENT PREDATOR, THE DEFENDANT SHALL BE REQUIRED TO
27 REGISTER PURSUANT TO ARTICLE 22 OF THIS TITLE AND SHALL BE SUBJECT

1 TO COMMUNITY NOTIFICATION PURSUANT TO PART 9 OF ARTICLE 13 OF
2 THIS TITLE.

3 (e) **Evaluation of policies and procedures - report.** (I) THE
4 BOARD SHALL RESEARCH, EITHER THROUGH DIRECT EVALUATION OR
5 THROUGH A REVIEW OF RELEVANT RESEARCH ARTICLES AND SEX
6 OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE, THROUGH A
7 COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE
8 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
9 POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED
10 PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY
11 INCLUDE, BUT NEED NOT BE LIMITED TO, REVIEWING AND RESEARCHING
12 REOFFENSE AND FACTORS THAT CONTRIBUTE TO REOFFENSE FOR SEX
13 OFFENDERS AS DEFINED IN THIS ARTICLE, THE EFFECTIVE USE OF
14 COGNITIVE BEHAVIORAL THERAPY TO PREVENT REOFFENSE, THE USE OF
15 POLYGRAPHS IN TREATMENT, AND THE CONTAINMENT MODEL FOR ADULT
16 SEX OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE
17 APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND STANDARDS
18 FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE,
19 BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE
20 BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT
21 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO PARAGRAPH
22 (b) OF THIS SUBSECTION (4).

23 (II) (A) ON OR BEFORE DECEMBER 1, 2011, THE BOARD SHALL
24 SUBMIT AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND
25 THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A
26 WRITTEN REPORT OF THE BOARD'S FINDINGS BASED ON THE RESEARCH AND
27 ANALYSIS, AS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), ON

1 THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND
2 TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

3 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
4 2012.

5 (f) **Criteria for measuring progress in treatment.**

6 (I) PURSUANT TO SECTION 18-1.3-1009, C.R.S., CONCERNING THE
7 CRITERIA FOR RELEASE FROM INCARCERATION, REDUCTION IN
8 SUPERVISION, AND DISCHARGE FOR CERTAIN ADULT SEX OFFENDERS, THE
9 BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE
10 JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL
11 DEVELOP AND REVISE, AS APPROPRIATE, CRITERIA FOR MEASURING AN
12 ADULT SEX OFFENDER'S PROGRESS IN TREATMENT. THE CRITERIA SHALL
13 ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING
14 WHETHER AN ADULT SEX OFFENDER MAY APPROPRIATELY BE RELEASED
15 FROM INCARCERATION PURSUANT TO SECTION 18-1.3-1006(1), C.R.S., OR
16 WHETHER THE ADULT SEX OFFENDER'S LEVEL OF SUPERVISION MAY BE
17 REDUCED PURSUANT TO SECTION 18-1.3-1006 (2) (a) OR 18-1.3-1008,
18 C.R.S., OR WHETHER THE ADULT SEX OFFENDER MAY APPROPRIATELY BE
19 DISCHARGED FROM PROBATION OR PAROLE PURSUANT TO SECTION
20 18-1.3-1006 OR 18-1.3-1008, C.R.S. AT A MINIMUM, THE CRITERIA SHALL
21 BE DESIGNED TO ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN
22 DETERMINING WHETHER THE ADULT SEX OFFENDER COULD BE
23 APPROPRIATELY SUPERVISED IN THE COMMUNITY IF HE OR SHE WERE
24 RELEASED FROM INCARCERATION, RELEASED TO A REDUCED LEVEL OF
25 SUPERVISION, OR DISCHARGED FROM PROBATION OR PAROLE. THE
26 CRITERIA SHALL NOT LIMIT THE DECISION-MAKING AUTHORITY OF THE
27 COURT OR THE STATE BOARD OF PAROLE.

1 (II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF
2 CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF
3 PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT
4 PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR
5 ADULT SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A
6 MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY
7 WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY
8 THREAT THAT THE ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

9 (g) **Living arrangements for adult sex offenders -**
10 **recommendations.** THE BOARD SHALL RESEARCH, ANALYZE, AND MAKE
11 RECOMMENDATIONS THAT REFLECT BEST PRACTICES FOR LIVING
12 ARRANGEMENTS FOR AND THE LOCATION OF ADULT SEX OFFENDERS
13 WITHIN THE COMMUNITY, INCLUDING BUT NOT LIMITED TO SHARED LIVING
14 ARRANGEMENTS. AT A MINIMUM, THE BOARD SHALL CONSIDER THE
15 SAFETY ISSUES RAISED BY THE LOCATION OF SEX OFFENDER RESIDENCES,
16 ESPECIALLY IN PROXIMITY TO PUBLIC OR PRIVATE SCHOOLS AND CHILD
17 CARE FACILITIES, AND PUBLIC NOTIFICATION OF THE LOCATION OF SEX
18 OFFENDER RESIDENCES. THE BOARD SHALL ADOPT AND REVISE AS
19 APPROPRIATE SUCH GUIDELINES AS IT MAY DEEM APPROPRIATE REGARDING
20 THE LIVING ARRANGEMENTS AND LOCATION OF ADULT SEX OFFENDERS
21 AND ADULT SEX OFFENDER HOUSING. THE BOARD SHALL ACCOMPLISH THE
22 REQUIREMENTS SPECIFIED IN THIS PARAGRAPH (g) WITHIN EXISTING
23 APPROPRIATIONS.

24 (h) **Data collection from treatment providers.** IF THE
25 DEPARTMENT OF PUBLIC SAFETY ACQUIRES SUFFICIENT FUNDING, THE
26 BOARD MAY REQUEST THAT INDIVIDUALS OR ENTITIES PROVIDING
27 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH

1 SERVICES THAT CONFORM WITH STANDARDS DEVELOPED BY THE BOARD
2 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4) SUBMIT TO THE
3 BOARD DATA AND INFORMATION AS DETERMINED BY THE BOARD AT THE
4 TIME THAT FUNDING BECOMES AVAILABLE. THIS DATA AND INFORMATION
5 MAY BE USED BY THE BOARD TO EVALUATE THE EFFECTIVENESS OF THE
6 GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS ARTICLE TO
7 EVALUATE THE EFFECTIVENESS OF INDIVIDUALS OR ENTITIES PROVIDING
8 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH
9 SERVICES, OR FOR ANY OTHER PURPOSES CONSISTENT WITH THE
10 PROVISIONS OF THIS ARTICLE. == ==


11 (i) **Standards for identification and evaluation of juvenile**
12 **offenders.** THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
13 APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY
14 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING
15 JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL
16 PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE
17 OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING,
18 TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL
19 UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY AND
20 THAT CERTAIN JUVENILES MAY HAVE THE CAPACITY TO CHANGE THEIR
21 BEHAVIOR WITH APPROPRIATE INTERVENTION AND TREATMENT. THE
22 BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR
23 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS
24 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
25 VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE
26 NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO
27 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

1 **(j) Guidelines and standards for treatment for juvenile**
2 **offenders.** THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
3 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT JUVENILES WHO
4 HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH
5 DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS MAY
6 BE USED FOR JUVENILE OFFENDERS WHO ARE PLACED ON PROBATION,
7 COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, PLACED ON
8 PAROLE, OR PLACED IN OUT-OF-HOME PLACEMENT. PROGRAMS
9 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
10 DEVELOPED PURSUANT TO THIS PARAGRAPH **(j)** SHALL BE AS FLEXIBLE AS
11 POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH JUVENILE
12 OFFENDER TO PREVENT HIM OR HER FROM HARMING VICTIMS AND
13 POTENTIAL VICTIMS. PROGRAMS SHALL PROVIDE A CONTINUING
14 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
15 AVAILABLE TO A JUVENILE OFFENDER AS HE OR SHE PROCEEDS THROUGH
16 THE JUVENILE JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT
17 NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING,
18 FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT,
19 SHARED LIVING ARRANGEMENTS, AND TREATMENT IN A THERAPEUTIC
20 COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES
21 AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH **(j)** SHALL BE,
22 TO THE EXTENT POSSIBLE, ACCESSIBLE TO ALL JUVENILES WHO HAVE
23 COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE JUVENILE JUSTICE
24 SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR CO-OCCURRING
25 DISORDERS.

26 **(k) Evaluation of policies and procedures for juvenile**
27 **offenders.** THE BOARD SHALL RESEARCH AND ANALYZE THE

1 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
2 PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE FOR JUVENILES WHO
3 HAVE COMMITTED SEXUAL OFFENSES. THE BOARD SHALL REVISE THE
4 GUIDELINES AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND
5 TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S
6 RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND
7 PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS
8 DEVELOPED PURSUANT TO PARAGRAPH (j) OF THIS SUBSECTION (4).

9 (1) **Educational materials.** THE BOARD, IN COLLABORATION WITH
10 LAW ENFORCEMENT AGENCIES, VICTIM ADVOCACY ORGANIZATIONS, THE
11 DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF PUBLIC SAFETY,
12 SHALL DEVELOP AND REVISE, AS APPROPRIATE, FOR USE BY SCHOOLS, THE
13 STATEMENT IDENTIFIED IN SECTION 22-1-124, C.R.S., AND EDUCATIONAL
14 MATERIALS REGARDING GENERAL INFORMATION ABOUT ADULT SEX
15 OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES,
16 SAFETY CONCERNS RELATED TO SUCH OFFENDERS, AND OTHER RELEVANT
17 MATERIALS. THE BOARD SHALL PROVIDE THE STATEMENT AND MATERIALS
18 TO THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF
19 EDUCATION SHALL MAKE THE STATEMENT AND MATERIALS AVAILABLE TO
20 SCHOOLS IN THE STATE.

21 
22 (5) **Immunity.** THE BOARD AND THE INDIVIDUAL BOARD
23 MEMBERS SHALL BE IMMUNE FROM ANY LIABILITY, WHETHER CIVIL OR
24 CRIMINAL, FOR THE GOOD FAITH PERFORMANCE OF THE DUTIES OF THE
25 BOARD.

26 (6) **Repeal.** (a) THIS SECTION IS REPEALED, EFFECTIVE
27 SEPTEMBER 1, 2016.

1 (b) PRIOR TO SAID REPEAL, THE SEX OFFENDER MANAGEMENT
2 BOARD APPOINTED PURSUANT TO THIS SECTION SHALL BE REVIEWED AS
3 PROVIDED FOR IN SECTION 24-34-104, C.R.S.

4 **SECTION 4.** 16-11.7-104 (1), Colorado Revised Statutes, is
5 amended to read:

6 **16-11.7-104. Sex offenders - evaluation and identification**
7 **required.** (1) On and after January 1, 1994, each CONVICTED ADULT sex
8 offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE who is
9 to be considered for probation shall be required, as a part of the
10 presentence or probation investigation required pursuant to section
11 16-11-102, to submit to an evaluation for treatment, an evaluation for
12 risk, procedures required for monitoring of behavior to protect victims
13 and potential victims, and an identification developed pursuant to section
14 16-11.7-103 (4). ~~(a)~~.

15 **SECTION 5.** 16-11.7-105, Colorado Revised Statutes, is
16 amended to read:

17 **16-11.7-105. Sentencing of sex offenders - treatment based**
18 **upon evaluation and identification required.** ~~(1)~~ Each ADULT sex
19 offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE
20 sentenced by the court for an offense committed on or after January 1,
21 1994, shall be required, as a part of any sentence to probation,
22 COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, SENTENCE TO
23 community corrections, ~~or~~ incarceration with the department of
24 corrections, PLACEMENT ON PAROLE, OR OUT-OF-HOME PLACEMENT to
25 undergo treatment to the extent appropriate to such offender based upon
26 the recommendations of the evaluation and identification made pursuant
27 to section 16-11.7-104, or based upon any subsequent recommendations

1 by the department of corrections, the judicial department, the department
2 of human services, or the division of criminal justice of IN the department
3 of public safety, whichever is appropriate. ~~Any such~~ THE treatment and
4 monitoring shall be ~~at a facility or with a person certified or~~ PROVIDED BY
5 AN approved ~~by the board~~ PROVIDER PURSUANT TO SECTION 16-11.7-106
6 and ~~at such offender's own expense, based upon such offender's ability to~~
7 THE OFFENDER SHALL pay for ~~such~~ THE treatment TO THE EXTENT THE
8 OFFENDER IS FINANCIALLY ABLE TO DO SO.

9 (2) ~~Each sex offender placed on parole by the state board of parole~~
10 ~~on or after January 1, 1994, shall be required, as a condition of such~~
11 ~~parole, to undergo treatment to the extent appropriate to such offender~~
12 ~~based upon the recommendations of the evaluation and identification~~
13 ~~pursuant to section 16-11.7-104 or any evaluation or subsequent~~
14 ~~reevaluation regarding such offender during the offender's incarceration~~
15 ~~or any period of parole. Any such treatment shall be at a facility or with~~
16 ~~a person certified or approved by the board and at such offender's~~
17 ~~expense, based upon such offender's ability to pay for such treatment.~~

18 **SECTION 6.** 16-11.7-106, Colorado Revised Statutes, is
19 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

20 **16-11.7-106. Sex offender evaluation, treatment, and**
21 **polygraph services - contracts with providers - placement on**
22 **provider list - grievances - fund created.** (1) THE DEPARTMENT OF
23 CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL
24 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF
25 HUMAN SERVICES SHALL NOT EMPLOY OR CONTRACT WITH, AND SHALL
26 NOT ALLOW AN ADULT SEX OFFENDER OR A JUVENILE WHO HAS
27 COMMITTED A SEXUAL OFFENSE TO EMPLOY OR CONTRACT WITH, AN

1 INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION,
2 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE UNLESS
3 THE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH
4 SERVICES TO BE PROVIDED BY THE INDIVIDUAL OR ENTITY CONFORM WITH
5 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SECTION
6 16-11.7-103, AND THE NAME OF THE INDIVIDUAL PROVIDING SERVICES IS
7 ON THE LIST CREATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2)
8 OF THIS SECTION OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC
9 SERVICES.

10 (2) (a) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
11 PROCESS FOR TREATMENT PROVIDERS, EVALUATORS, AND POLYGRAPH
12 EXAMINERS WHO PROVIDE SERVICES PURSUANT TO THIS ARTICLE TO ADULT
13 SEX OFFENDERS AND TO JUVENILES WHO HAVE COMMITTED SEXUAL
14 OFFENSES. THE APPLICATION AND REVIEW PROCESS SHALL ALLOW
15 PROVIDERS TO DEMONSTRATE THAT THEY ARE IN COMPLIANCE WITH THE
16 STANDARDS ADOPTED PURSUANT TO THIS ARTICLE. THE APPLICATION AND
17 REVIEW PROCESS SHALL CONSIST OF THE FOLLOWING THREE PARTS:

18 (I) THE BOARD SHALL DEVELOP SEPARATE APPLICATION AND
19 REVIEW PROCESSES FOR STANDARDS THAT APPLY TO THE CRIMINAL
20 JUSTICE COMPONENT, SUCH AS CRIMINAL HISTORY RECORD CHECKS, FOR
21 EVALUATORS, INDIVIDUAL TREATMENT PROVIDERS, AND POLYGRAPH
22 EXAMINERS. APPLICATIONS FOR THE CRIMINAL JUSTICE COMPONENTS,
23 INCLUDING FINGERPRINTS, SHALL BE SUBMITTED TO THE BOARD. THE
24 BOARD SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU
25 OF INVESTIGATION FOR USE IN CONDUCTING A STATE CRIMINAL HISTORY
26 RECORD CHECK AND FOR TRANSMITTAL TO THE FEDERAL BUREAU OF
27 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE

1 BOARD MAY USE INFORMATION OBTAINED FROM THE STATE AND NATIONAL
2 CRIMINAL HISTORY RECORD CHECKS TO DETERMINE AN APPLICANT'S
3 ELIGIBILITY FOR PLACEMENT ON THE APPROVED PROVIDER LIST. THE
4 BOARD SHALL BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE
5 PROVISIONS OF THIS SUBPARAGRAPH (I).

6 (II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
7 PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND
8 CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH
9 EXAMINERS.

10 (III) THE BOARD SHALL REQUIRE A PERSON WHO APPLIES FOR
11 PLACEMENT, INCLUDING A PERSON WHO APPLIES FOR CONTINUED
12 PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE
13 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH
14 SERVICES PURSUANT TO THIS ARTICLE TO SUBMIT TO A CURRENT
15 BACKGROUND INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE
16 CRIMINAL HISTORY RECORD CHECK DESCRIBED IN SUBPARAGRAPH (I) OF
17 THIS PARAGRAPH (a). IN CONDUCTING THE CURRENT BACKGROUND
18 INVESTIGATION REQUIRED BY THIS SUBPARAGRAPH (III), THE BOARD
19 SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND
20 RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS
21 TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND
22 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

23 (b) AFTER THE PROCESS DEVELOPED PURSUANT TO PARAGRAPH (a)
24 OF THIS SUBSECTION (2) IS ESTABLISHED AND PROVIDERS HAVE MET ALL
25 THE CRITERIA OF THE APPLICATION AND REVIEW PROCESS, THE BOARD MAY
26 APPROVE THE PROVIDER. THE BOARD AND THE DEPARTMENT OF
27 REGULATORY AGENCIES SHALL JOINTLY PUBLISH AT LEAST ANNUALLY A

1 LIST OF APPROVED PROVIDERS. THE BOARD SHALL FORWARD THE LIST TO
2 THE OFFICE OF THE STATE COURT ADMINISTRATOR, THE DEPARTMENT OF
3 PUBLIC SAFETY, THE DEPARTMENT OF HUMAN SERVICES, AND THE
4 DEPARTMENT OF CORRECTIONS. THE BOARD SHALL UPDATE AND
5 FORWARD THE LIST OF APPROVED PROVIDERS AS NECESSARY.

6 (3) THE BOARD SHALL USE THE INFORMATION OBTAINED FROM THE
7 STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS AND THE
8 CURRENT BACKGROUND INVESTIGATION IN DETERMINING WHETHER TO
9 PLACE OR CONTINUE THE PLACEMENT OF A PERSON ON THE APPROVED
10 PROVIDER LIST.

11 (4) THE BOARD MAY DETERMINE THE REQUIREMENTS FOR AN
12 EVALUATOR'S, TREATMENT PROVIDER'S, OR POLYGRAPH EXAMINER'S NAME
13 TO BE PLACED ON THE APPROVED PROVIDER LIST AFTER HIS OR HER NAME
14 HAS BEEN REMOVED FROM THE LIST FOR ANY REASON.

15 (5) THE BOARD SHALL DEVELOP A RENEWAL PROCESS FOR THE
16 CONTINUED PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST
17 PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS
18 SECTION.

19 (6) THE BOARD MAY ASSESS A FEE TO AN APPLICANT FOR
20 PLACEMENT ON THE APPROVED PROVIDER LIST. THE FEE SHALL NOT
21 EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO
22 COVER THE COSTS OF CONDUCTING A CURRENT BACKGROUND
23 INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ALL
24 MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (6) SHALL BE
25 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
26 TO THE SEX OFFENDER TREATMENT PROVIDER FUND, WHICH FUND IS
27 HEREBY CREATED AND REFERRED TO IN THIS SUBSECTION (6) AS THE

1 "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL
2 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION OF
3 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY FOR THE DIRECT
4 AND INDIRECT COSTS ASSOCIATED WITH THE CURRENT BACKGROUND
5 INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ANY
6 MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF SUBSECTION (2)
7 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
8 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
9 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
10 TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS
11 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
12 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
13 GENERAL FUND OR ANOTHER FUND.

14 (7) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS
15 PARAGRAPH (a), THE BOARD SHALL REFER TO THE DEPARTMENT OF
16 REGULATORY AGENCIES FOR INVESTIGATION ANY COMPLAINTS OR
17 GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC
18 TREATMENT OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE. THE
19 DEPARTMENT OF REGULATORY AGENCIES SHALL NOTIFY THE BOARD OF
20 THE RECEIPT OF ANY COMPLAINT OR GRIEVANCE AGAINST A PROVIDER IF
21 THE COMPLAINT OR GRIEVANCE WAS NOT REFERRED BY THE BOARD.

22 (II) THE APPROPRIATE BOARD, PURSUANT TO ARTICLE 43 OF TITLE
23 12, C.R.S., AND REFERRED TO IN THIS SUBSECTION (7) AS THE "DORA
24 BOARD", SHALL REVIEW AND INVESTIGATE ALL COMPLAINTS AND
25 GRIEVANCES RECEIVED BY THE DEPARTMENT OF REGULATORY AGENCIES
26 OR REFERRED BY THE BOARD TO THE DEPARTMENT OF REGULATORY
27 AGENCIES. THE DORA BOARD SHALL INVESTIGATE ANY ALLEGATIONS

1 THAT MAY CONSTITUTE A VIOLATION OF THE PROFESSIONAL LICENSING
2 ACT AND THE RELEVANT TREATMENT AND EVALUATION STANDARDS
3 ADOPTED BY THE BOARD. THE DORA BOARD SHALL PROVIDE THE BOARD
4 WITH THE RESULTS OF THE INVESTIGATION AND ADVISE THE BOARD OF ANY
5 DISCIPLINARY ACTION THE DORA BOARD TAKES AGAINST THE INDIVIDUAL
6 PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

7 (III) NOTHING IN THIS SUBSECTION (7) SHALL LIMIT THE RIGHTS OR
8 RESPONSIBILITIES OF THE DEPARTMENT OF REGULATORY AGENCIES WITH
9 RESPECT TO THE INVESTIGATION AND RESOLUTION OF COMPLAINTS
10 PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S.

11 (IV) COMPLAINTS OR GRIEVANCES AGAINST INDIVIDUALS WHO
12 PROVIDE POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE SHALL BE
13 REVIEWED AND INVESTIGATED BY THE BOARD.

14 (b) (I) NOTWITHSTANDING ANY ACTION TAKEN BY THE
15 DEPARTMENT OF REGULATORY AGENCIES OR THE DORA BOARD, THE
16 BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION, AS PERMITTED BY
17 LAW, AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER
18 EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS
19 ARTICLE, WHICH DISCIPLINARY ACTION MAY INCLUDE, BUT NEED NOT BE
20 LIMITED TO, THE REMOVAL OF THE INDIVIDUAL'S NAME FROM THE LIST OF
21 PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR
22 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

23 (II) NOTHING IN THIS SUBSECTION (7) SHALL LIMIT THE RIGHTS OR
24 RESPONSIBILITIES OF THE BOARD WITH RESPECT TO THE APPROVAL OR
25 REMOVAL OF AN INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY
26 PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
27 SERVICES PURSUANT TO THIS ARTICLE.

1 **SECTION 7.** Article 11.7 of title 16, Colorado Revised Statutes,
2 is amended BY THE ADDITION OF A NEW SECTION to read:

3 **16-11.7-109. Reporting requirements - legislative declaration.**

4 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

5 (I) AS A BODY, THE BOARD IS ONE OF COLORADO'S MOST
6 IMPORTANT RESOURCES ON THE TREATMENT AND MANAGEMENT OF ADULT
7 SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL
8 OFFENSES;

9 (II) THE BOARD'S RESEARCH AND ANALYSIS OF TREATMENT
10 STANDARDS AND PROGRAMS, AS WELL AS EMPIRICAL EVIDENCE
11 COLLECTED AND COMPILED BY THE BOARD WITH RESPECT TO THE
12 TREATMENT OUTCOMES OF ADULT SEX OFFENDERS AND JUVENILES WHO
13 HAVE COMMITTED SEXUAL OFFENSES, IS VITAL TO INFORM THE DECISIONS
14 OF POLICYMAKERS.

15 (b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS
16 APPROPRIATE FOR THE BOARD TO REPORT TO THE GENERAL ASSEMBLY ON
17 AN ANNUAL BASIS CONCERNING THE STATUS OF THE TREATMENT AND
18 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
19 COMMITTED SEXUAL OFFENSES IN COLORADO.

20 (2) ON OR BEFORE JANUARY 31, 2012, AND ON OR BEFORE
21 JANUARY 31 EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE AND
22 PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE
23 OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN
24 REPORT CONCERNING BEST PRACTICES FOR THE TREATMENT AND
25 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
26 COMMITTED SEXUAL OFFENSES, INCLUDING ANY EVIDENCE-BASED
27 ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS AS WELL AS

1 INFORMATION CONCERNING ANY NEW FEDERAL LEGISLATION RELATING TO
2 THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND
3 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE REPORT MAY
4 INCLUDE THE BOARD'S RECOMMENDATIONS FOR LEGISLATION TO CARRY
5 OUT THE PURPOSE AND DUTIES OF THE BOARD TO PROTECT THE
6 COMMUNITY.

7 **SECTION 8.** 16-11-102 (1) (b), Colorado Revised Statutes, is
8 amended to read:

9 **16-11-102. Presentence or probation investigation.**

10 (1) (b) Each presentence report prepared regarding a sex offender, as
11 defined in section 16-11.7-102 (2), with respect to any offense committed
12 on or after January 1, 1996, shall contain the results of an evaluation and
13 identification conducted pursuant to article 11.7 of this title. In addition,
14 the presentence report shall include, when appropriate as provided in
15 section 18-3-414.5, C.R.S., the results of the risk assessment screening
16 instrument developed pursuant to section 16-11.7-103 (4) ~~(c.5)~~ (d).
17 Notwithstanding the provisions of subsection (4) of this section, a
18 presentence report shall be prepared for each person convicted as a sex
19 offender, and the court may not dispense with the presentence evaluation,
20 risk assessment, and report unless such a report has been completed
21 within the last six months and there has been no material change that
22 would affect the report in the past six months.

23 **SECTION 9.** 16-22-103 (5) (a) (IV), Colorado Revised Statutes,
24 is amended to read:

25 **16-22-103. Sex offender registration - required - applicability**
26 **- exception.** (5) (a) Notwithstanding any provision of this article to the
27 contrary, if, pursuant to a motion filed by a person described in this

1 subsection (5) or on its own motion, a court determines that the
2 registration requirement specified in this section would be unfairly
3 punitive and that exempting the person from the registration requirement
4 would not pose a significant risk to the community, the court, upon
5 consideration of the totality of the circumstances, may exempt the person
6 from the registration requirements imposed pursuant to this section if:

7 (IV) The person has received a sex offender evaluation that
8 conforms with the standards developed pursuant to section 16-11.7-103
9 (4) ~~(f)~~ (i), from an evaluator who meets the standards established by the
10 sex offender management board, and the evaluator recommends
11 exempting the person from the registration requirements based upon the
12 best interests of that person and the community; and

13 **SECTION 10. Repeal.** 24-34-104 (41) (l), Colorado Revised
14 Statutes, is repealed as follows:

15 **24-34-104. General assembly review of regulatory agencies
16 and functions for termination, continuation, or reestablishment.**

17 (41) The following agencies, functions, or both, shall terminate on July
18 1, 2010:

19 (l) ~~The sex offender management board, created by section
20 16-11.7-103, C.R.S.;~~

21 **SECTION 11.** 24-34-104 (47.5), Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **24-34-104. General assembly review of regulatory agencies
24 and functions for termination, continuation, or reestablishment.**

25 (47.5) The following agencies, functions, or both, shall terminate on
26 September 1, 2016:

27 (c) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION

1 16-11.7-103, C.R.S.

2 **SECTION 12. Appropriation.** (1) In addition to any other
3 appropriation, there is hereby appropriated, out of any moneys in the
4 general fund not otherwise appropriated, to the department of public
5 safety, for allocation to the division of criminal justice, for sex offender
6 supervision, for the fiscal year beginning July 1, 2011, the sum of three
7 hundred eighteen thousand five hundred sixty-five dollars (\$318,565) and
8 3.2 FTE, or so much thereof as may be necessary, for the implementation
9 of this act.

10 (2) In addition to any other appropriation, there is hereby
11 appropriated, out of any moneys in the sex offender surcharge fund
12 created in section 18-21-103 (3), Colorado Revised Statutes, not
13 otherwise appropriated, to the department of public safety, for allocation
14 to the division of criminal justice, for the sex offender surcharge fund
15 program, for the fiscal year beginning July 1, 2011, the sum of one
16 hundred fifty-two thousand five hundred thirty-six dollars (\$152,536)
17 cash funds and 1.5 FTE, or so much thereof as may be necessary, for the
18 implementation of this act.

19 **SECTION 13. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.