

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0346.02 Brita Darling

HOUSE BILL 10-1364

HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

Hudak,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE SEX OFFENDER MANAGEMENT BOARD, AND, IN**
102 **CONNECTION THEREWITH, CONTINUING THE SEX OFFENDER**
103 **MANAGEMENT BOARD, AND MAKING AN APPROPRIATION.**

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>.)

Sunset Process - House Judiciary Committee. The bill extends the repeal date for the sex offender management board (board) by 5 years to July 1, 2015, and revises the board's duties.

Section 1: The bill amends the language of the legislative

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.

HOUSE
Amended 2nd Reading
April 21, 2010

declaration for the board, as well as language in other sections in the statutory article that governs the board (article) to refer to juvenile offenders as "juveniles who have committed sexual offenses" rather than labeling juveniles as sex offenders.

Sections 2 and 3: The bill adds the definitions "adult sex offender" and "juvenile who has committed a sexual offense" and adds 3 offenses to the definition of "sex offense" for purposes of the article.

Section 4: The bill repeals and reenacts, with amendments, the section in the article relating to the board's creation and duties. Because the section is repealed and reenacted, both the original statutory language and any new statutory language are shown in small capital font.

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.

With respect to the board's duties, the bill:

- ! Removes the "no known cure" language from the requirement that the board prescribe a standardized procedure for the evaluation and identification of adult 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.
- ! Requires the standards adopted by the board to include a requirement that persons who provide sex offender evaluation, treatment, or polygraph services provide the board with the data and information the board deems necessary to carry out its duties;
- ! Clarifies that the board's existing duty to research and analyze the effectiveness of evaluation, identification, and treatment procedures includes a review of the no-cure

policy and the containment model for sex offender treatment and management, and requires the board to 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;

- ! Relocates a provision in existing law that requires the board, in collaboration with the department of corrections, the judicial department, and the parole board, to establish standards for community entities that provide supervision and treatment for adult sex offenders who have developmental disabilities.

Sections 5 and 6: 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 7: The bill repeals and reenacts, with amendments, the statutory section that addresses sex offender treatment. Because the section is repealed and reenacted, both the original statutory language and any new statutory language are shown in small capital font. 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 the (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 take appropriate disciplinary action against the individual and shall provide the board with the results of the investigation and advise the board of any disciplinary action the DORA board takes. 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.

Section 8: 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. The board shall also report a summary of the complaints or grievances against providers reviewed and investigated by the DORA board and the resolution of those complaints or grievances.

Sections 9 and 11: The bill makes conforming amendments.

Section 10: The bill amends a statutory provision concerning community notification relating to sexually violent predators by clarifying when a sex offender convicted in another jurisdiction will be designated as a sexually violent predator pursuant to Colorado law.

Section 12: The bill requires the executive director of the department of public safety, after consultation with the board, to promulgate rules regarding sex offender treatment standards, lifetime supervision criteria, and eligibility standards for providers.

Sections 13 and 14: 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 amended to read:

4 **16-11.7-101. Legislative declaration.** The general assembly
5 hereby declares that ~~the comprehensive evaluation, identification,~~
6 ~~treatment, and continued monitoring of~~ IT IS NECESSARY TO
7 COMPREHENSIVELY EVALUATE, IDENTIFY, TREAT, MANAGE, AND MONITOR
8 ADULT sex offenders who are subject to the supervision of the criminal
9 justice system ~~is necessary~~ AND JUVENILES WHO HAVE COMMITTED
10 SEXUAL OFFENSES WHO ARE SUBJECT TO THE SUPERVISION OF THE
11 JUVENILE JUSTICE SYSTEM in order to work toward ~~the elimination of~~
12 ELIMINATING recidivism by such offenders. Therefore, the general
13 assembly hereby creates a program ~~which~~ THAT standardizes the
14 evaluation, identification, treatment, MANAGEMENT, and ~~continued~~
15 monitoring of ADULT sex offenders AND JUVENILES WHO HAVE
16 COMMITTED SEXUAL OFFENSES at each stage of the criminal OR JUVENILE
17 justice system so that such offenders will curtail recidivistic behavior and
18 the protection of victims and potential victims will be enhanced. The
19 general assembly hereby recognizes that ~~some sex~~ CERTAIN offenders
20 cannot or will not respond to treatment and that, in creating the program

1 described in this article, the general assembly does not intend to imply
2 that all ~~sex~~ offenders can be successful in treatment.

3 **SECTION 2.** 16-11.7-102 (1), Colorado Revised Statutes, is
4 amended, and the said 16-11.7-102 is further amended BY THE
5 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

6 **16-11.7-102. Definitions.** As used in this article, unless the
7 context otherwise requires:

8 (1) ~~"Board" means the sex offender management board created in~~
9 ~~section 16-11.7-103.~~ "ADULT SEX OFFENDER" MEANS A PERSON WHO IS
10 EIGHTEEN YEARS OF AGE OR OLDER AND WHO HAS BEEN CONVICTED, AS
11 DESCRIBED IN SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (a) OF
12 SUBSECTION (2) OF THIS SECTION, OF A SEX OFFENSE.

13 (1.3) "BOARD" MEANS THE SEX OFFENDER MANAGEMENT BOARD
14 CREATED IN SECTION 16-11.7-103.

15 (1.5) "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE" MEANS
16 A JUVENILE WHO HAS COMMITTED AN OFFENSE AS DESCRIBED IN
17 SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS
18 SECTION.

19 **SECTION 3.** 16-11.7-102 (3) (v), Colorado Revised Statutes, is
20 amended, and the said 16-11.7-102 (3) is further amended BY THE
21 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

22 **16-11.7-102. Definitions.** As used in this article, unless the
23 context otherwise requires:

24 (3) "Sex offense" means any felony or misdemeanor offense
25 described in this subsection (3) as follows:

26 (v) ~~Class 4~~ Felony internet luring of a child, in violation of section
27 18-3-306 (3), C.R.S.; or

1 (x) SEXUAL CONDUCT IN A PENAL INSTITUTION IN VIOLATION OF
2 SECTION 18-7-701, C.R.S.;

3 (y) SECOND DEGREE KIDNAPPING IN VIOLATION OF SECTION
4 18-3-302 (3) (a), C.R.S.; OR

5 (z) WHOLESALE PROMOTION OF OBSCENITY TO A MINOR OR
6 PROMOTION OF OBSCENITY IN VIOLATION OF SECTION 18-7-102, C.R.S.

7 **SECTION 4.** 16-11.7-103, Colorado Revised Statutes, is
8 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

9 **16-11.7-103. Sex offender management board - creation -**
10 **duties - repeal.** (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF
11 PUBLIC SAFETY, A SEX OFFENDER MANAGEMENT BOARD THAT SHALL
12 CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD
13 SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN
14 AND RURAL AREAS OF THE STATE. THE MEMBERSHIP OF THE BOARD SHALL
15 CONSIST OF THE FOLLOWING PERSONS WHO SHALL BE APPOINTED AS
16 FOLLOWS:

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

19 (I) ONE MEMBER WHO REPRESENTS THE JUDICIAL DEPARTMENT
20 AND WHO HAS EXPERTISE IN DEALING WITH JUVENILES WHO HAVE
21 COMMITTED SEXUAL OFFENSES;

22 (II) ONE MEMBER WHO IS A JUDGE; AND

23 (III) ONE MEMBER WHO IS A JUVENILE COURT MAGISTRATE WITH
24 EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL
25 OFFENSES;

26 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
27 CORRECTIONS SHALL APPOINT ONE MEMBER WHO REPRESENTS THE

1 DEPARTMENT OF CORRECTIONS;

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

4 (I) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF HUMAN
5 SERVICES AND WHO HAS EXPERTISE IN CHILD WELFARE AND CASE
6 MANAGEMENT;

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

9 (III) ONE MEMBER WHO IS A PROVIDER OF OUT-OF-HOME
10 PLACEMENT SERVICES WITH EXPERTISE IN PROVIDING SERVICES TO
11 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

12 (d) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
13 SAFETY SHALL APPOINT SIXTEEN MEMBERS AS FOLLOWS:

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

16 (II) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH
17 PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF
18 ADULT SEX OFFENDERS;

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

22 (IV) ONE MEMBER WHO IS A MEMBER OF A COMMUNITY
23 CORRECTIONS BOARD;

24 (V) ONE MEMBER WHO IS A PUBLIC DEFENDER AND WHO HAS
25 EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL
26 OFFENSES;

27 (VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT AND

1 WHO HAS EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED
2 SEXUAL OFFENSES;

3 (VII) THREE MEMBERS WHO ARE RECOGNIZED EXPERTS IN THE
4 FIELD OF SEX ABUSE AND WHO CAN REPRESENT SEX ABUSE VICTIMS AND
5 VICTIMS' RIGHTS ORGANIZATIONS;

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

7 (IX) ONE MEMBER WHO IS A PRIVATE CRIMINAL DEFENSE
8 ATTORNEY WITH EXPERTISE IN REPRESENTING SEX OFFENDERS;

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

12 (XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS, ONE OF
13 WHOM SHALL REPRESENT AN URBAN OR SUBURBAN COUNTY AND ONE OF
14 WHOM SHALL REPRESENT A RURAL COUNTY, APPOINTED AFTER
15 CONSULTATION WITH A STATEWIDE GROUP REPRESENTING COUNTIES;

16 (e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
17 ATTORNEYS COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
18 INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS EXPERTISE IN
19 DEALING WITH ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
20 COMMITTED SEXUAL OFFENSES; AND

21 (f) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE
22 MEMBER WHO HAS EXPERIENCE DEALING WITH JUVENILES WHO HAVE
23 COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE PUBLIC SCHOOL
24 SYSTEM.

25 (2) THE MEMBERS OF THE BOARD SHALL ELECT PRESIDING
26 OFFICERS FOR THE BOARD, INCLUDING A CHAIR AND VICE CHAIR, FROM
27 AMONG THE BOARD MEMBERS APPOINTED PURSUANT TO SUBSECTION (1)

1 OF THIS SECTION, WHICH PRESIDING OFFICERS SHALL SERVE TERMS OF TWO
2 YEARS. BOARD MEMBERS MAY REELECT A PRESIDING OFFICER.

3 (3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF
4 THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT
5 THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF
6 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1,
7 2010, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR
8 HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A
9 MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS SHALL SERVE
10 WITHOUT COMPENSATION.

11 (4) THE BOARD SHALL CARRY OUT THE FOLLOWING DUTIES:

12 (a) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
13 APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY
14 ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH
15 DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL PROVIDE FOR AN
16 EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND
17 RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT FOR THE
18 OFFENDER BASED UPON THE KNOWLEDGE THAT CERTAIN ADULT SEX
19 OFFENDERS ARE EXTREMELY HABITUATED AND THAT, FOR CERTAIN ADULT
20 SEX OFFENDERS, THERE IS NO KNOWN CURE FOR THE PROPENSITY TO
21 COMMIT SEX OFFENSES. THE BOARD SHALL DEVELOP AND IMPLEMENT
22 METHODS OF INTERVENTION FOR ADULT SEX OFFENDERS, WHICH METHODS
23 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
24 VICTIMS AND POTENTIAL VICTIMS AND WHICH ARE APPROPRIATE TO THE
25 NEEDS OF THE PARTICULAR OFFENDER, SO LONG AS THERE IS NO
26 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

27 (b) (I) THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS

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

1 (II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO
2 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL INCLUDE THE
3 REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION,
4 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AND
5 THE SEX OFFENDER TREATMENT PROGRAM PROVIDE THE BOARD WITH THE
6 DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT THE BOARD DEEMS
7 NECESSARY CONCERNING THE ADULT SEX OFFENDERS BEING EVALUATED
8 OR TREATED AND THAT THE FAILURE TO COMPLY WITH THE REQUIREMENT
9 MAY RESULT IN THE REMOVAL OF THE PROVIDER'S NAME FROM THE LIST OF
10 PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR
11 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

12 (c) THE BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE
13 ALLOCATION OF MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE
14 FUND CREATED PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE
15 JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION
16 OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE
17 DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL
18 COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER
19 SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE
20 DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) FOR THE
21 IDENTIFICATION, EVALUATION, AND TREATMENT OF ADULT SEX
22 OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES.
23 THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS FROM THE SEX
24 OFFENDER SURCHARGE FUND IN ACCORDANCE WITH THE PLAN.

25 (d) THE BOARD SHALL CONSULT ON, APPROVE, AND REVISE AS
26 NECESSARY THE RISK ASSESSMENT SCREENING INSTRUMENT DEVELOPED
27 BY THE DIVISION OF CRIMINAL JUSTICE TO ASSIST THE SENTENCING COURT

1 IN DETERMINING THE LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL
2 COMMIT ONE OR MORE OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5
3 (1) (a) (II), C.R.S., UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION
4 18-3-414.5 (1) (a) (III), C.R.S. STATE GENERAL FUND MONEYS SHALL NOT
5 BE USED TO DEVELOP THE RISK ASSESSMENT SCREENING INSTRUMENT. IN
6 CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER ADULT SEX
7 OFFENDER RISK ASSESSMENT RESEARCH AND SHALL CONSIDER AS ONE
8 ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER WHO SUFFERS
9 FROM A MENTAL ABNORMALITY, PSYCHOSIS, OR PERSONALITY DISORDER
10 THAT MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT
11 PREDATORY OFFENSES. FOR PURPOSES OF THIS SUBSECTION (4) ONLY,
12 "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION
13 THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF A PERSON IN
14 A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF
15 CRIMINAL SEXUAL ACTS TO A DEGREE THAT MAKES THE PERSON A
16 SIGNIFICANT RISK TO THE HEALTH AND SAFETY OF OTHER PERSONS. IF A
17 DEFENDANT IS FOUND TO BE A SEXUALLY VIOLENT PREDATOR, THE
18 DEFENDANT SHALL BE REQUIRED TO REGISTER PURSUANT TO ARTICLE 22
19 OF THIS TITLE AND SHALL BE SUBJECT TO COMMUNITY NOTIFICATION
20 PURSUANT TO PART 9 OF ARTICLE 13 OF THIS TITLE.

21 (e) (I) THE BOARD SHALL RESEARCH, THROUGH DIRECT
22 EVALUATION OR THROUGH A REVIEW OF RELEVANT RESEARCH ARTICLES
23 AND SEX OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE,
24 THROUGH A COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE
25 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
26 POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED
27 PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY

1 INCLUDE, BUT SHALL NOT BE LIMITED TO, REVIEWING AND RESEARCHING
2 THE NO-CURE POLICY AS IT RELATES TO ALL SEX OFFENDERS AS DEFINED
3 IN THIS ARTICLE AND THE CONTAINMENT MODEL FOR ADULT SEX
4 OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE
5 APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND
6 STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS
7 APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND
8 ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM
9 TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT
10 TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (4).

11 (II) ON OR BEFORE DECEMBER 1, 2011, THE BOARD SHALL SUBMIT
12 AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE
13 HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A
14 WRITTEN REPORT OF THE BOARD'S FINDINGS AFTER RESEARCHING AND
15 ANALYZING, AS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e),
16 THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND
17 TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

18 (f) (I) PURSUANT TO SECTION 18-1.3-1009, C.R.S., CONCERNING
19 THE CRITERIA FOR RELEASE FROM INCARCERATION, REDUCTION IN
20 SUPERVISION, AND DISCHARGE FOR CERTAIN ADULT SEX OFFENDERS, THE
21 BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE
22 JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL
23 DEVELOP AND REVISE, AS APPROPRIATE, CRITERIA FOR MEASURING AN
24 ADULT SEX OFFENDER'S PROGRESS IN TREATMENT. THE CRITERIA SHALL
25 ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING
26 WHETHER AN ADULT SEX OFFENDER MAY APPROPRIATELY BE RELEASED
27 FROM INCARCERATION PURSUANT TO SECTION 18-1.3-1006(1), C.R.S., OR

1 WHETHER THE ADULT SEX OFFENDER'S LEVEL OF SUPERVISION MAY BE
2 REDUCED PURSUANT TO SECTION 18-1.3-1006 (2) (a) OR 18-1.3-1008,
3 C.R.S., OR WHETHER THE ADULT SEX OFFENDER MAY APPROPRIATELY BE
4 DISCHARGED FROM PROBATION OR PAROLE PURSUANT TO SECTION
5 18-1.3-1006 OR 18-1.3-1008, C.R.S. AT A MINIMUM, THE CRITERIA SHALL
6 BE DESIGNED TO ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN
7 DETERMINING WHETHER THE ADULT SEX OFFENDER COULD BE
8 APPROPRIATELY SUPERVISED IN THE COMMUNITY IF HE OR SHE WERE
9 RELEASED FROM INCARCERATION, RELEASED TO A REDUCED LEVEL OF
10 SUPERVISION, OR DISCHARGED FROM PROBATION OR PAROLE. THE
11 CRITERIA SHALL NOT LIMIT THE DECISION-MAKING AUTHORITY OF THE
12 COURT OR THE STATE BOARD OF PAROLE.

13 (II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF
14 CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF
15 PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT
16 PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR
17 ADULT SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A
18 MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY
19 WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY
20 THREAT THAT THE ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

21 (g) THE BOARD SHALL RESEARCH, ANALYZE, AND MAKE
22 RECOMMENDATIONS THAT REFLECT BEST PRACTICES FOR LIVING
23 ARRANGEMENTS FOR AND THE LOCATION OF ADULT SEX OFFENDERS
24 WITHIN THE COMMUNITY, INCLUDING BUT NOT LIMITED TO SHARED LIVING
25 ARRANGEMENTS. AT A MINIMUM, THE BOARD SHALL CONSIDER THE
26 SAFETY ISSUES RAISED BY THE LOCATION OF SEX OFFENDER RESIDENCES,
27 ESPECIALLY IN PROXIMITY TO PUBLIC OR PRIVATE SCHOOLS AND CHILD

1 CARE FACILITIES, AND PUBLIC NOTIFICATION OF THE LOCATION OF SEX
2 OFFENDER RESIDENCES. THE BOARD SHALL ADOPT AND REVISE AS
3 APPROPRIATE SUCH GUIDELINES AS IT MAY DEEM APPROPRIATE REGARDING
4 THE LIVING ARRANGEMENTS AND LOCATION OF ADULT SEX OFFENDERS
5 AND ADULT SEX OFFENDER HOUSING. THE BOARD SHALL ACCOMPLISH THE
6 REQUIREMENTS SPECIFIED IN THIS PARAGRAPH (g) WITHIN EXISTING
7 APPROPRIATIONS.

8 (h) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
9 APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY
10 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING
11 JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL
12 PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE
13 OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING,
14 TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL
15 UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY. THE
16 BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR
17 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS
18 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
19 VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE
20 NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO
21 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

22 (i) (I) THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
23 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT JUVENILES WHO
24 HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH
25 DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS MAY
26 BE USED FOR JUVENILE OFFENDERS WHO ARE PLACED ON PROBATION,
27 COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, PLACED ON

1 PAROLE, OR PLACED IN OUT-OF-HOME PLACEMENT. PROGRAMS
2 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
3 DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE AS FLEXIBLE
4 AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH
5 JUVENILE OFFENDER TO PREVENT HIM OR HER FROM HARMING VICTIMS
6 AND POTENTIAL VICTIMS. PROGRAMS SHALL PROVIDE A CONTINUING
7 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
8 AVAILABLE TO A JUVENILE OFFENDER AS HE OR SHE PROCEEDS THROUGH
9 THE JUVENILE JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT
10 NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING,
11 FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT,
12 SHARED LIVING ARRANGEMENTS, AND TREATMENT IN A THERAPEUTIC
13 COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES
14 AND STANDARDS DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I)
15 SHALL BE, TO THE EXTENT POSSIBLE, ACCESSIBLE TO ALL JUVENILES WHO
16 HAVE COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE JUVENILE
17 JUSTICE SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR
18 CO-OCCURRING DISORDERS.

19 (II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO
20 SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) SHALL INCLUDE THE
21 REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION OR
22 TREATMENT SERVICES PURSUANT TO THIS ARTICLE AND A PROGRAM
23 TREATING JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES PROVIDE
24 THE BOARD WITH THE DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT
25 THE BOARD DEEMS NECESSARY CONCERNING THE JUVENILE OFFENDER
26 BEING EVALUATED OR TREATED AND THAT THE FAILURE TO COMPLY WITH
27 THE REQUIREMENT MAY RESULT IN THE REMOVAL OF THE PROVIDER'S

1 NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE EVALUATION,
2 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

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

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

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

27 (6) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

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 5.** 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 BEEN ADJUDICATED FOR A SEXUAL
9 OFFENSE who is to be considered for probation shall be required, as a part
10 of the 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 6.** 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 PLACEMENT IN OUT-OF-HOME
25 PLACEMENT to undergo treatment to the extent appropriate to such
26 offender based upon the recommendations of the evaluation and
27 identification made pursuant to section 16-11.7-104, or based upon any

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

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

19 **SECTION 7.** 16-11.7-106, Colorado Revised Statutes, is
20 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

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

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

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

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

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

7 (II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
8 PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND
9 CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH
10 EXAMINERS. THE DEPARTMENT OF REGULATORY AGENCIES SHALL BE
11 RESPONSIBLE FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS
12 SUBPARAGRAPH (II).

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

26 (b) AFTER THE PROCESS DEVELOPED PURSUANT TO PARAGRAPH (a)
27 OF THIS SUBSECTION (2) IS ESTABLISHED AND PROVIDERS HAVE MET ALL

1 THE CRITERIA OF THE APPLICATION AND REVIEW PROCESS, THE BOARD MAY
2 APPROVE THE PROVIDER. THE BOARD AND THE DEPARTMENT OF
3 REGULATORY AGENCIES SHALL JOINTLY PUBLISH AT LEAST ANNUALLY A
4 LIST OF APPROVED PROVIDERS. THE BOARD SHALL FORWARD THE LIST TO
5 THE OFFICE OF THE STATE COURT ADMINISTRATOR, THE DEPARTMENT OF
6 PUBLIC SAFETY, THE DEPARTMENT OF HUMAN SERVICES, AND THE
7 DEPARTMENT OF CORRECTIONS. THE BOARD SHALL UPDATE AND
8 FORWARD THE LIST OF APPROVED PROVIDERS AS NECESSARY.

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

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

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

22 (6) THE BOARD MAY ASSESS A FEE TO AN APPLICANT FOR
23 PLACEMENT ON THE APPROVED PROVIDER LIST. THE FEE SHALL NOT
24 EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO
25 COVER THE COSTS OF CONDUCTING A CURRENT BACKGROUND
26 INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ALL
27 MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (6) SHALL BE

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

17 (7) (a) (I) THE BOARD SHALL REFER TO THE DEPARTMENT OF
18 REGULATORY AGENCIES FOR INVESTIGATION ANY COMPLAINTS OR
19 GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC
20 TREATMENT OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE.

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

1 DISCIPLINARY ACTION THE DORA BOARD TAKES AGAINST THE INDIVIDUAL
2 PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

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

7 (b) THE BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION
8 AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER EVALUATION,
9 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AS
10 PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO THE REMOVAL OF
11 THE INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE
12 SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES
13 PURSUANT TO THIS ARTICLE.

14 **SECTION 8.** Article 11.7 of title 16, Colorado Revised Statutes,
15 is amended BY THE ADDITION OF A NEW SECTION to read:

16 **16-11.7-109. Reporting requirements.** (1) (a) THE GENERAL
17 ASSEMBLY FINDS AND DECLARES THAT:

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

22 (II) THE BOARD'S RESEARCH AND ANALYSIS OF TREATMENT
23 STANDARDS AND PROGRAMS, AS WELL AS EMPIRICAL EVIDENCE
24 COLLECTED AND COMPILED BY THE BOARD WITH RESPECT TO THE
25 TREATMENT OUTCOMES OF ADULT SEX OFFENDERS AND JUVENILES WHO
26 HAVE COMMITTED SEXUAL OFFENSES, IS VITAL TO INFORM THE DECISIONS
27 OF POLICYMAKERS.

1 (b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS
2 APPROPRIATE FOR THE BOARD TO REPORT TO THE GENERAL ASSEMBLY ON
3 AN ANNUAL BASIS CONCERNING THE STATUS OF THE TREATMENT AND
4 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
5 COMMITTED SEXUAL OFFENSES IN COLORADO.

6 (2) (a) ON OR BEFORE JANUARY 31, 2011, AND ON OR BEFORE
7 JANUARY 31 EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE AND
8 PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE
9 OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN
10 REPORT CONCERNING BEST PRACTICES FOR THE TREATMENT AND
11 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
12 COMMITTED SEXUAL OFFENSES, INCLUDING ANY EVIDENCE-BASED
13 ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS AS WELL AS
14 INFORMATION CONCERNING ANY NEW FEDERAL LEGISLATION RELATING TO
15 THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND
16 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES.

17 (b) THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,
18 INFORMATION CONCERNING THE FOLLOWING:

19 (I) THE EFFECT OF TREATMENT ON ADULT SEX OFFENDERS AND
20 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

21 (II) THE NUMBER OF TREATMENT PROVIDERS IN THE STATE;

22 (III) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO
23 HAVE COMMITTED SEXUAL OFFENSES WHO ARE RECEIVING TREATMENT
24 AND THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
25 COMMITTED SEXUAL OFFENSES WHO HAVE COMPLETED TREATMENT,
26 WHETHER INCARCERATED, ON PROBATION, OR ON PAROLE;

27 (IV) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO

1 HAVE COMMITTED SEXUAL OFFENSES WHO HAVE HAD PROBATION OR
2 PAROLE REVOKED AND THE REASONS FOR THE REVOCATION; AND

3 (V) THE NUMBER OF COMPLAINTS OR GRIEVANCES RECEIVED BY
4 THE DEPARTMENT OF REGULATORY AGENCIES CONCERNING INDIVIDUALS
5 PROVIDING SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
6 SERVICES PURSUANT TO THIS ARTICLE, AND GENERALIZED INFORMATION
7 REGARDING THE NATURE OF THE COMPLAINT OR GRIEVANCE AND THE
8 RESOLUTION OF THE GRIEVANCE, INCLUDING ANY DISCIPLINARY ACTION
9 TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES OR THE BOARD
10 AGAINST THE PROVIDER.

11 (c) THE REPORT MAY INCLUDE THE BOARD'S RECOMMENDATIONS
12 FOR LEGISLATION TO CARRY OUT THE PURPOSE AND DUTIES OF THE BOARD
13 AND TO PROTECT THE COMMUNITY.

14 **SECTION 9.** 16-11-102 (1) (b), Colorado Revised Statutes, is
15 amended to read:

16 **16-11-102. Presentence or probation investigation.**
17 (1) (b) Each presentence report prepared regarding a sex offender, as
18 defined in section 16-11.7-102 (2), with respect to any offense committed
19 on or after January 1, 1996, shall contain the results of an evaluation and
20 identification conducted pursuant to article 11.7 of this title. In addition,
21 the presentence report shall include, when appropriate as provided in
22 section 18-3-414.5, C.R.S., the results of the risk assessment screening
23 instrument developed pursuant to section 16-11.7-103 (4) ~~(c.5)~~ (d).
24 Notwithstanding the provisions of subsection (4) of this section, a
25 presentence report shall be prepared for each person convicted as a sex
26 offender, and the court may not dispense with the presentence evaluation,
27 risk assessment, and report unless such a report has been completed

1 within the last six months and there has been no material change that
2 would affect the report in the past six months.

3 **SECTION 10.** 16-13-902 (5), Colorado Revised Statutes, is
4 amended to read:

5 **16-13-902. Definitions.** As used in this part 9, unless the context
6 otherwise requires:

7 (5) "Sexually violent predator" means a sex offender who is
8 identified as a sexually violent predator pursuant to section 18-3-414.5,
9 C.R.S., or who is found to be a sexually violent predator or its equivalent
10 in any other state or jurisdiction, including but not limited to a military or
11 federal jurisdiction. FOR PURPOSES OF THIS SUBSECTION (5),
12 "EQUIVALENT", WITH RESPECT TO AN OFFENDER FOUND TO BE A SEXUALLY
13 VIOLENT PREDATOR OR ITS EQUIVALENT, MEANS A SEX OFFENDER
14 CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT
15 LIMITED TO A MILITARY OR FEDERAL JURISDICTION, WHO HAS BEEN
16 ASSESSED OR LABELED AT THE HIGHEST REGISTRATION AND NOTIFICATION
17 LEVEL IN THE JURISDICTION WHERE THE CONVICTION WAS ENTERED AND
18 WHO SATISFIES THE AGE, DATE OF OFFENSE, AND CONVICTION
19 REQUIREMENTS FOR SEXUALLY VIOLENT PREDATOR STATUS PURSUANT TO
20 COLORADO LAW. A SEX OFFENDER CONVICTED IN ANOTHER JURISDICTION
21 WHO IS DESIGNATED AS A SEXUALLY VIOLENT PREDATOR BY THE
22 DEPARTMENT OF PUBLIC SAFETY FOR PURPOSES OF COLORADO LAW SHALL
23 BE NOTIFIED OF HIS OR HER DESIGNATION AND SHALL HAVE THE RIGHT TO
24 APPEAL THE DESIGNATION IN DISTRICT COURT.

25 **SECTION 11.** 16-22-103 (5) (a) (IV), Colorado Revised Statutes,
26 is amended to read:

27 **16-22-103. Sex offender registration - required - applicability**

1 **- exception.** (5) (a) Notwithstanding any provision of this article to the
2 contrary, if, pursuant to a motion filed by a person described in this
3 subsection (5) or on its own motion, a court determines that the
4 registration requirement specified in this section would be unfairly
5 punitive and that exempting the person from the registration requirement
6 would not pose a significant risk to the community, the court, upon
7 consideration of the totality of the circumstances, may exempt the person
8 from the registration requirements imposed pursuant to this section if:

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

15 **SECTION 12.** 24-33.5-503 (1), Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17 **24-33.5-503. Duties of division.** (1) The division has the
18 following duties:

19 (p.5) TO RECOMMEND TO THE EXECUTIVE DIRECTOR, IN
20 CONSULTATION WITH THE SEX OFFENDER MANAGEMENT BOARD, THE
21 PROMULGATION OF RULES CONCERNING TREATMENT STANDARDS FOR
22 ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL
23 OFFENSES, LIFETIME SUPERVISION CRITERIA, AND ELIGIBILITY STANDARDS
24 FOR PERSONS WHO PROVIDE SEX OFFENDER EVALUATION, TREATMENT,
25 AND POLYGRAPH SERVICES PURSUANT TO ARTICLE 11.7 OF TITLE 16,
26 C.R.S. IN PROMULGATING THE RULES, THE EXECUTIVE DIRECTOR SHALL
27 TAKE INTO ACCOUNT THE TREATMENT STANDARDS, LIFETIME SUPERVISION

1 CRITERIA, AND ELIGIBILITY STANDARDS FOR PERSONS WHO PROVIDE SEX
2 OFFENDER EVALUATION, TREATMENT AND POLYGRAPH SERVICES
3 RECOMMENDED BY THE SEX OFFENDER MANAGEMENT BOARD PURSUANT
4 TO SECTION 16-11.7-103 (4), C.R.S. THE EXECUTIVE DIRECTOR SHALL
5 PROMULGATE THE RULES IN ACCORDANCE WITH THE "STATE
6 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

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

9 **24-34-104. General assembly review of regulatory agencies**
10 **and functions for termination, continuation, or reestablishment.**

11 (41) The following agencies, functions, or both, shall terminate on July
12 1, 2010:

13 (l) ~~The sex offender management board, created by section~~
14 ~~16-11.7-103, C.R.S.;~~

15 **SECTION 14.** 24-34-104 (46), Colorado Revised Statutes, is
16 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

17 **24-34-104. General assembly review of regulatory agencies**
18 **and functions for termination, continuation, or reestablishment.**

19 (46) The following agencies, functions, or both shall terminate on July
20 1, 2015:

21 (m) THE SEX OFFENDER MANAGEMENT BOARD, CREATED IN
22 SECTION 16-11.7-103, C.R.S.

23 **SECTION 15. Appropriation - legislative intent.** (1) In
24 addition to any other appropriation, there is hereby appropriated, out of
25 any moneys in the general fund not otherwise appropriated, to the judicial
26 department, for allocation to the probation and related services division,
27 for probation programs, for the fiscal year beginning July 1, 2010, the

1 sum of eighty-six thousand eight hundred eighty-eight dollars (\$86,888)
2 and 1.5 FTE, or so much thereof as may be necessary, for the
3 implementation of this act.

4 (2) In addition to any other appropriation, there is hereby
5 appropriated, out of any moneys in the general fund not otherwise
6 appropriated, to the department of public safety, for allocation to the
7 division of criminal justice, for research and reporting functions, for the
8 fiscal year beginning July 1, 2010, the sum of one hundred thousand nine
9 hundred twenty-six dollars (\$100,926) and 0.3 FTE, or so much thereof
10 as may be necessary, for the implementation of this act.

11 (3) It is the intent of the general assembly that the general fund
12 appropriation for the implementation of this act shall be derived from
13 savings generated from the implementation of the provisions of House
14 Bill 10-1338, as enacted during the second regular session of the
15 sixty-seventh general assembly.

16 **SECTION 16. Effective date.** (1) This act shall take effect upon
17 passage.

18 (2) Notwithstanding the provisions of subsection (1) of this
19 section, this act shall take effect only if:

20 (a) The final fiscal estimate for House Bill 10-1338, as determined
21 from the appropriations enacted in said bill, shows a net reduction in the
22 amount of general fund revenues appropriated for the state fiscal year
23 2010-11, that is equal to or greater than the amount of the general fund
24 appropriation made for the implementation of this act for the state fiscal
25 year 2010-11, as reflected in section 15 of this act; and

26 (b) House Bill 10-1338 is enacted at the second regular session of
27 the sixty-seventh general assembly and becomes law; and

1 (c) The staff director of the joint budget committee files written
2 notice with the revisor of statutes no later than July 15, 2010, that the
3 requirement set forth in paragraph (a) of this subsection (2) has been met.

4 **SECTION 17. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.