

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 10-0346.02 Brita Darling

HOUSE BILL 10-1364

HOUSE SPONSORSHIP

Ryden,

SENATE SPONSORSHIP

Hudak,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

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.

SENATE
Am ended 3rd Reading
May 10, 2010

SENATE
Am ended 2nd Reading
May 7, 2010

HOUSE
3rd Reading Unam ended
April 22, 2010

HOUSE
Am ended 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 Because the section is repealed and reenacted, both the original statutory language and any new statutory language are shown in small capital font.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.

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21 **SECTION 3.** 16-11.7-103, Colorado Revised Statutes, is
22 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

23 **16-11.7-103. Sex offender management board - creation -**
24 **duties - repeal.** (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF
25 PUBLIC SAFETY, A SEX OFFENDER MANAGEMENT BOARD THAT SHALL
26 CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD
27 SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN

1 ANDRURAL AREAS OF THE STATE. THE MEMBERSHIP OF THE BOARD SHALL
2 CONSIST OF THE FOLLOWING PERSONS WHO SHALL BE APPOINTED AS
3 FOLLOWS:

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

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

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

8 (III) ONE MEMBER WHO IS A JUVENILE COURT MAGISTRATE WITH
9 EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL
10 OFFENSES;

11 (b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
12 CORRECTIONS SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
13 DEPARTMENT OF CORRECTIONS;

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

16 (I) ONE MEMBER WHO REPRESENTS THE DEPARTMENT OF HUMAN
17 SERVICES AND WHO HAS EXPERTISE IN CHILD WELFARE AND CASE
18 MANAGEMENT;

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

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

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

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

1 (II) TWO MEMBERS WHO ARE LICENSED MENTAL HEALTH
2 PROFESSIONALS WITH RECOGNIZABLE EXPERTISE IN THE TREATMENT OF
3 ADULT SEX OFFENDERS;

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

7 (IV) ONE MEMBER WHO IS A MEMBER OF A COMMUNITY
8 CORRECTIONS BOARD;

9 (V) ONE MEMBER WHO IS A PUBLIC DEFENDER AND WHO HAS
10 EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL
11 OFFENSES;

12 (VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT AND
13 WHO HAS EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED
14 SEXUAL OFFENSES;

15 (VII) THREE MEMBERS WHO ARE RECOGNIZED EXPERTS IN THE
16 FIELD OF SEX ABUSE AND WHO CAN REPRESENT SEX ABUSE VICTIMS AND
17 VICTIMS' RIGHTS ORGANIZATIONS;

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

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

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

24 (XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS, ONE OF
25 WHOM SHALL REPRESENT AN URBAN OR SUBURBAN COUNTY AND ONE OF
26 WHOM SHALL REPRESENT A RURAL COUNTY, APPOINTED AFTER
27 CONSULTATION WITH A STATEWIDE GROUP REPRESENTING COUNTIES;

1 (e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
2 ATTORNEYS COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
3 INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS EXPERTISE IN
4 DEALING WITH ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
5 COMMITTED SEXUAL OFFENSES; AND

6 (f) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE
7 MEMBER WHO HAS EXPERIENCE DEALING WITH JUVENILES WHO HAVE
8 COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE PUBLIC SCHOOL
9 SYSTEM.

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

15 (3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF
16 THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT
17 THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF
18 PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1,
19 2010, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR
20 HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A
21 MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS SHALL SERVE
22 WITHOUT COMPENSATION.

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

24 (a) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
25 APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY
26 ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH
27 DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL PROVIDE FOR AN

1 EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND
2 RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT FOR THE
3 OFFENDER BASED UPON THE KNOWLEDGE THAT CERTAIN ADULT SEX
4 OFFENDERS ARE EXTREMELY HABITUATED AND CANNOT OR WILL NOT
5 RESPOND TO TREATMENT. THE BOARD SHALL DEVELOP AND IMPLEMENT
6 METHODS OF INTERVENTION FOR ADULT SEX OFFENDERS, WHICH METHODS
7 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
8 VICTIMS AND POTENTIAL VICTIMS AND WHICH ARE APPROPRIATE TO THE
9 NEEDS OF THE PARTICULAR OFFENDER, SO LONG AS THERE IS NO
10 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

11 (b) (I) THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
12 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT ADULT SEX
13 OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL
14 DISABILITIES, WHICH GUIDELINES AND STANDARDS CAN BE USED IN THE
15 TREATMENT OF OFFENDERS WHO ARE PLACED ON PROBATION,
16 INCARCERATED WITH THE DEPARTMENT OF CORRECTIONS, PLACED ON
17 PAROLE, OR PLACED IN COMMUNITY CORRECTIONS. PROGRAMS
18 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
19 DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE AS FLEXIBLE
20 AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH ADULT
21 SEX OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS AND
22 POTENTIAL VICTIMS. PROGRAMS SHALL INCLUDE A CONTINUING
23 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
24 AVAILABLE TO AN ADULT SEX OFFENDER AS HE OR SHE PROCEEDS
25 THROUGH THE CRIMINAL JUSTICE SYSTEM. TREATMENT OPTIONS MAY
26 INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL
27 COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT

1 TREATMENT, SHARED LIVING ARRANGEMENTS, OR TREATMENT IN A
2 THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE
3 GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS
4 SUBPARAGRAPH (I) SHALL, TO THE EXTENT POSSIBLE, BE ACCESSIBLE TO
5 ALL ADULT SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM, INCLUDING
6 THOSE OFFENDERS WITH MENTAL ILLNESS AND CO-OCCURRING DISORDERS.
7 THE PROCEDURES FOR EVALUATION, IDENTIFICATION, TREATMENT, AND
8 MONITORING REQUIRED TO BE DEVELOPED PURSUANT TO THIS
9 SUBPARAGRAPH (I) AND PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE
10 IMPLEMENTED ONLY TO THE EXTENT MONEYS ARE AVAILABLE IN THE SEX
11 OFFENDER SURCHARGE FUND CREATED IN SECTION 18-21-103 (3), C.R.S.

12 (II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL INCLUDE THE
14 REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION,
15 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AND
16 THE SEX OFFENDER TREATMENT PROGRAM PROVIDE THE BOARD WITH THE
17 DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT THE BOARD DEEMS
18 NECESSARY CONCERNING THE ADULT SEX OFFENDERS BEING EVALUATED
19 OR TREATED AND THAT THE FAILURE TO COMPLY WITH THE REQUIREMENT
20 MAY RESULT IN THE REMOVAL OF THE PROVIDER'S NAME FROM THE LIST OF
21 PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR
22 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

23 (c) THE BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE
24 ALLOCATION OF MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE
25 FUND CREATED PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE
26 JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION
27 OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE

1 DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL
2 COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER
3 SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE
4 DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) FOR THE
5 IDENTIFICATION, EVALUATION, AND TREATMENT OF ADULT SEX
6 OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES.
7 THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS FROM THE SEX
8 OFFENDER SURCHARGE FUND IN ACCORDANCE WITH THE PLAN.

9 (d) THE BOARD SHALL CONSULT ON, APPROVE, AND REVISE AS
10 NECESSARY THE RISK ASSESSMENT SCREENING INSTRUMENT DEVELOPED
11 BY THE DIVISION OF CRIMINAL JUSTICE TO ASSIST THE SENTENCING COURT
12 IN DETERMINING THE LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL
13 COMMIT ONE OR MORE OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5
14 (1) (a) (II), C.R.S., UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION
15 18-3-414.5 (1) (a) (III), C.R.S. STATE GENERAL FUND MONEYS SHALL NOT
16 BE USED TO DEVELOP THE RISK ASSESSMENT SCREENING INSTRUMENT. IN
17 CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER ADULT SEX
18 OFFENDER RISK ASSESSMENT RESEARCH AND SHALL CONSIDER AS ONE
19 ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER WHO SUFFERS
20 FROM A MENTAL ABNORMALITY, PSYCHOSIS, OR PERSONALITY DISORDER
21 THAT MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT
22 PREDATORY OFFENSES. FOR PURPOSES OF THIS SUBSECTION (4) ONLY,
23 "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION
24 THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF A PERSON IN
25 A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF
26 CRIMINAL SEXUAL ACTS TO A DEGREE THAT MAKES THE PERSON A
27 SIGNIFICANT RISK TO THE HEALTH AND SAFETY OF OTHER PERSONS. IF A

1 DEFENDANT IS FOUND TO BE A SEXUALLY VIOLENT PREDATOR, THE
2 DEFENDANT SHALL BE REQUIRED TO REGISTER PURSUANT TO ARTICLE 22
3 OF THIS TITLE AND SHALL BE SUBJECT TO COMMUNITY NOTIFICATION
4 PURSUANT TO PART 9 OF ARTICLE 13 OF THIS TITLE.

5 (e) (I) THE BOARD SHALL RESEARCH, THROUGH DIRECT
6 EVALUATION OR THROUGH A REVIEW OF RELEVANT RESEARCH ARTICLES
7 AND SEX OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE,
8 THROUGH A COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE
9 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
10 POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED
11 PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY
12 INCLUDE, BUT SHALL NOT BE LIMITED TO, REVIEWING AND RESEARCHING
13 THE NO-CURE POLICY AS IT RELATES TO ALL SEX OFFENDERS AS DEFINED
14 IN THIS ARTICLE AND THE CONTAINMENT MODEL FOR ADULT SEX
15 OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE
16 APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND
17 STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS
18 APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND
19 ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM
20 TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT
21 TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (4).

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

1 TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

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

24 (II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF
25 CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF
26 PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT
27 PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR

1 ADULT SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A
2 MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY
3 WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY
4 THREAT THAT THE ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

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

19 (h) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
20 APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY
21 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING
22 JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL
23 PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE
24 OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING,
25 TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL
26 UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY. THE
27 BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR

1 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS
2 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
3 VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE
4 NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO
5 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

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

1 JUSTICE SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR
2 CO-OCCURRING DISORDERS.

3 (II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO
4 SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) SHALL INCLUDE THE
5 REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION OR
6 TREATMENT SERVICES PURSUANT TO THIS ARTICLE AND A PROGRAM
7 TREATING JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES PROVIDE
8 THE BOARD WITH THE DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT
9 THE BOARD DEEMS NECESSARY CONCERNING THE JUVENILE OFFENDER
10 BEING EVALUATED OR TREATED AND THAT THE FAILURE TO COMPLY WITH
11 THE REQUIREMENT MAY RESULT IN THE REMOVAL OF THE PROVIDER'S
12 NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE EVALUATION,
13 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

14 (j) THE BOARD SHALL RESEARCH AND ANALYZE THE
15 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
16 PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE FOR JUVENILES WHO
17 HAVE COMMITTED SEXUAL OFFENSES. THE BOARD SHALL REVISE THE
18 GUIDELINES AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND
19 TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S
20 RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND
21 PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS
22 DEVELOPED PURSUANT TO PARAGRAPH (i) OF THIS SUBSECTION (4).

23 (k) THE BOARD, IN COLLABORATION WITH LAW ENFORCEMENT
24 AGENCIES, VICTIM ADVOCACY ORGANIZATIONS, THE DEPARTMENT OF
25 EDUCATION, AND THE DEPARTMENT OF PUBLIC SAFETY, SHALL DEVELOP
26 AND REVISE, AS APPROPRIATE, FOR USE BY SCHOOLS, THE STATEMENT
27 IDENTIFIED IN SECTION 22-1-124, C.R.S., AND EDUCATIONAL MATERIALS

1 REGARDING GENERAL INFORMATION ABOUT ADULT SEX OFFENDERS AND
2 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, SAFETY CONCERNS
3 RELATED TO SUCH OFFENDERS, AND OTHER RELEVANT MATERIALS. THE
4 BOARD SHALL PROVIDE THE STATEMENT AND MATERIALS TO THE
5 DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF EDUCATION SHALL
6 MAKE THE STATEMENT AND MATERIALS AVAILABLE TO SCHOOLS IN THE
7 STATE.

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

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

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

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

17 **16-11.7-104. Sex offenders - evaluation and identification**
18 **required.** (1) On and after January 1, 1994, each CONVICTED ADULT sex
19 offender AND JUVENILE WHO HAS BEEN ADJUDICATED FOR A SEXUAL
20 OFFENSE who is to be considered for probation shall be required, as a part
21 of the presentence or probation investigation required pursuant to section
22 16-11-102, to submit to an evaluation for treatment, an evaluation for
23 risk, procedures required for monitoring of behavior to protect victims
24 and potential victims, and an identification developed pursuant to section
25 16-11.7-103 (4). ~~(a).~~

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

1 **16-11.7-105. Sentencing of sex offenders - treatment based**
2 **upon evaluation and identification required.** (1) Each ADULT sex
3 offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE
4 sentenced by the court for an offense committed on or after January 1,
5 1994, shall be required as a part of any sentence to probation,
6 COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, SENTENCE TO
7 community corrections, ~~or~~ incarceration with the department of
8 corrections, PLACEMENT ON PAROLE, OR PLACEMENT IN OUT-OF-HOME
9 PLACEMENT to undergo treatment to the extent appropriate to such
10 offender based upon the recommendations of the evaluation and
11 identification made pursuant to section 16-11.7-104, or based upon any
12 subsequent recommendations by the department of corrections, the
13 judicial department, the department of human services, or the division of
14 criminal justice ~~of~~ IN the department of public safety, whichever is
15 appropriate. ~~Any such~~ THE treatment and monitoring shall be at a facility
16 ~~or with a person certified or~~ PROVIDED BY AND approved by the board
17 PROVIDER PURSUANT TO SECTION 16-11.7-106 and ~~at such offender's own~~
18 ~~expense, based upon such offender's ability to~~ THE OFFENDER SHALL pay
19 for ~~such~~ THE treatment TO THE EXTENT THE OFFENDER IS FINANCIALLY
20 ABLE TO DO SO. EACH OFFENDER REQUIRED TO UNDERGO TREATMENT
21 PURSUANT TO THIS SECTION SHALL BE GIVEN A CHOICE OF AT LEAST THREE
22 DIFFERENT APPROVED PROVIDERS TO PROVIDE THE TREATMENT, WHERE
23 AVAILABLE.

24 (2) Each sex offender placed on parole by the state board of parole
25 ~~on or after January 1, 1994, shall be required, as a condition of such~~
26 ~~parole, to undergo treatment to the extent appropriate to such offender~~
27 ~~based upon the recommendations of the evaluation and identification~~

1 ~~pursuant to section 16-11.7-104 or any evaluation or subsequent~~
2 ~~reevaluation regarding such offender during the offender's incarceration~~
3 ~~or any period of parole. Any such treatment shall be at a facility or with~~
4 ~~a person certified or approved by the board and at such offender's~~
5 ~~expense, based upon such offender's ability to pay for such treatment.~~

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

8 **16-11.7-106. Sex offender evaluation, treatment, and**
9 **polygraph services - contracts with providers - placement on**
10 **provider list - grievances - fund created.** (1) THE DEPARTMENT OF
11 CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL
12 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF
13 HUMAN SERVICES SHALL NOT EMPLOY OR CONTRACT WITH, AND SHALL
14 NOT ALLOW AN ADULT SEX OFFENDER OR A JUVENILE WHO HAS
15 COMMITTED A SEXUAL OFFENSE TO EMPLOY OR CONTRACT WITH, AN
16 INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION,
17 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE UNLESS
18 THE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH
19 SERVICES TO BE PROVIDED BY THE INDIVIDUAL OR ENTITY CONFORM WITH
20 THE STANDARDS DEVELOPED PURSUANT TO SECTION 16-11.7-103 (4) (b)
21 (I) AND (4) (i) (I) AND THE NAME OF THE INDIVIDUAL PROVIDING SERVICES
22 IS ON THE LIST CREATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2)
23 OF THIS SECTION OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC
24 SERVICES.

25 (2) (a) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
26 PROCESS FOR TREATMENT PROVIDERS, EVALUATORS, AND POLYGRAPH
27 EXAMINERS WHO PROVIDE SERVICES PURSUANT TO THIS ARTICLE TO ADULT

1 SEX OFFENDERS AND TO JUVENILES WHO HAVE COMMITTED SEXUAL
2 OFFENSES. THE APPLICATION AND REVIEW PROCESS SHALL ALLOW
3 PROVIDERS TO DEMONSTRATE THAT THEY ARE IN COMPLIANCE WITH THE
4 STANDARDS ADOPTED PURSUANT TO THIS ARTICLE. THE APPLICATION AND
5 REVIEW PROCESS SHALL CONSIST OF THE FOLLOWING THREE PARTS:

6 (I) THE BOARD SHALL DEVELOP SEPARATE APPLICATION AND
7 REVIEW PROCESSES FOR STANDARDS THAT APPLY TO THE CRIMINAL
8 JUSTICE COMPONENT, SUCH AS CRIMINAL HISTORY RECORD CHECKS, FOR
9 EVALUATORS, INDIVIDUAL TREATMENT PROVIDERS, AND POLYGRAPH
10 EXAMINERS. APPLICATIONS FOR THE CRIMINAL JUSTICE COMPONENTS,
11 INCLUDING FINGERPRINTS, SHALL BE SUBMITTED TO THE BOARD. THE
12 BOARD SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU
13 OF INVESTIGATION FOR USE IN CONDUCTING A STATE CRIMINAL HISTORY
14 RECORD CHECK AND FOR TRANSMITTAL TO THE FEDERAL BUREAU OF
15 INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE
16 BOARD MAY USE INFORMATION OBTAINED FROM THE STATE AND NATIONAL
17 CRIMINAL HISTORY RECORD CHECKS TO DETERMINE AN APPLICANT'S
18 ELIGIBILITY FOR PLACEMENT ON THE APPROVED PROVIDER LIST. THE
19 BOARD SHALL BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE
20 PROVISIONS OF THIS SUBPARAGRAPH (I).

21 (II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
22 PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND
23 CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH
24 EXAMINERS. THE DEPARTMENT OF REGULATORY AGENCIES SHALL BE
25 RESPONSIBLE FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS
26 SUBPARAGRAPH (II).

27 (III) THE BOARD SHALL REQUIRE ANY PERSON WHO APPLIES FOR

1 PLACEMENT, INCLUDING ANY PERSON WHO APPLIES FOR CONTINUED
2 PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE SEX-
3 OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH SERVICES
4 PURSUANT TO THIS ARTICLE TO SUBMIT TO A CURRENT BACKGROUND
5 INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE CRIMINAL HISTORY
6 RECORD CHECK DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).
7 IN CONDUCTING THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY
8 THIS SUBPARAGRAPH (III), THE BOARD SHALL OBTAIN REFERENCE AND
9 CRIMINAL HISTORY INFORMATION AND RECOMMENDATIONS THAT MAY BE
10 RELEVANT TO THE APPLICANT'S FITNESS TO PROVIDE
11 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH
12 SERVICES PURSUANT TO THIS ARTICLE.

13 (b) AFTER THE PROCESS DEVELOPED PURSUANT TO PARAGRAPH (a)
14 OF THIS SUBSECTION (2) IS ESTABLISHED AND PROVIDERS HAVE MET ALL
15 THE CRITERIA OF THE APPLICATION AND REVIEW PROCESS, THE BOARD MAY
16 APPROVE THE PROVIDER. THE BOARD AND THE DEPARTMENT OF
17 REGULATORY AGENCIES SHALL JOINTLY PUBLISH AT LEAST ANNUALLY A
18 LIST OF APPROVED PROVIDERS. THE BOARD SHALL FORWARD THE LIST TO
19 THE OFFICE OF THE STATE COURT ADMINISTRATOR, THE DEPARTMENT OF
20 PUBLIC SAFETY, THE DEPARTMENT OF HUMAN SERVICES, AND THE
21 DEPARTMENT OF CORRECTIONS. THE BOARD SHALL UPDATE AND
22 FORWARD THE LIST OF APPROVED PROVIDERS AS NECESSARY.

23 (3) THE BOARD SHALL USE THE INFORMATION OBTAINED FROM THE
24 STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS AND THE
25 CURRENT BACKGROUND INVESTIGATION IN DETERMINING WHETHER TO
26 PLACE OR CONTINUE THE PLACEMENT OF A PERSON ON THE APPROVED
27 PROVIDER LIST.

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

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

9 (6) THE BOARD MAY ASSESS A FEE TO AN APPLICANT FOR
10 PLACEMENT ON THE APPROVED PROVIDER LIST. THE FEE SHALL NOT
11 EXCEED ONE HUNDRED TWENTY-FIVE DOLLARS PER APPLICATION TO
12 COVER THE COSTS OF CONDUCTING A CURRENT BACKGROUND
13 INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ALL
14 MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (6) SHALL BE
15 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
16 TO THE SEX OFFENDER TREATMENT PROVIDER FUND, WHICH FUND IS
17 HEREBY CREATED AND REFERRED TO IN THIS SUBSECTION (6) AS THE
18 "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL
19 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DIVISION OF
20 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY FOR THE DIRECT
21 AND INDIRECT COSTS ASSOCIATED WITH THE CURRENT BACKGROUND
22 INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS SECTION. ANY
23 MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF SUBSECTION (2)
24 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
25 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
26 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
27 TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS

1 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN
2 THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE
3 GENERAL FUND OR ANOTHER FUND.

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

8 (II) THE APPROPRIATE BOARD, PURSUANT TO ARTICLE 43 OF TITLE
9 12, C.R.S., AND REFERRED TO IN THIS SUBSECTION (7) AS THE "DORA
10 BOARD", SHALL REVIEW AND INVESTIGATE ALL COMPLAINTS AND
11 GRIEVANCES RECEIVED BY THE DEPARTMENT OF REGULATORY AGENCIES
12 OR REFERRED BY THE BOARD TO THE DEPARTMENT OF REGULATORY
13 AGENCIES. THE DORA BOARD SHALL PROVIDE THE BOARD WITH THE
14 RESULTS OF THE INVESTIGATION AND ADVISE THE BOARD OF ANY
15 DISCIPLINARY ACTION THE DORA BOARD TAKES AGAINST THE INDIVIDUAL
16 PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

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

21 (b) THE BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION
22 AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER EVALUATION,
23 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AS
24 PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO THE REMOVAL OF
25 THE INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE
26 SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES
27 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.** (1) (a) THE GENERAL
4 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) (a) ON OR BEFORE JANUARY 31, 2011, 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.

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

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

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

9 (III) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO
10 HAVE COMMITTED SEXUAL OFFENSES WHO ARE RECEIVING TREATMENT
11 AND THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
12 COMMITTED SEXUAL OFFENSES WHO HAVE COMPLETED TREATMENT,
13 WHETHER INCARCERATED, ON PROBATION, OR ON PAROLE;

14 (IV) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO
15 HAVE COMMITTED SEXUAL OFFENSES WHO HAVE HAD PROBATION OR
16 PAROLE REVOKED AND THE REASONS FOR THE REVOCATION; AND

17 (V) THE NUMBER OF COMPLAINTS OR GRIEVANCES RECEIVED BY
18 THE DEPARTMENT OF REGULATORY AGENCIES CONCERNING INDIVIDUALS
19 PROVIDING SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
20 SERVICES PURSUANT TO THIS ARTICLE, AND GENERALIZED INFORMATION
21 REGARDING THE NATURE OF THE COMPLAINT OR GRIEVANCE AND THE
22 RESOLUTION OF THE GRIEVANCE, INCLUDING ANY DISCIPLINARY ACTION
23 TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES OR THE BOARD
24 AGAINST THE PROVIDER.

25 (c) THE REPORT MAY INCLUDE THE BOARD'S RECOMMENDATIONS
26 FOR LEGISLATION TO CARRY OUT THE PURPOSE AND DUTIES OF THE BOARD
27 AND TO PROTECT THE COMMUNITY.

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

3 **16-11-102. Presentence or probation investigation.**

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

17 **SECTION 9.** 16-13-902 (5), Colorado Revised Statutes, is
18 amended to read:

19 **16-13-902. Definitions.** As used in this part 9, unless the context
20 otherwise requires:

21 (5) "Sexually violent predator" means a sex offender who is
22 identified as a sexually violent predator pursuant to section 18-3-414.5,
23 C.R.S., or who is found to be a sexually violent predator or its equivalent
24 in any other state or jurisdiction, including but not limited to a military or
25 federal jurisdiction. FOR PURPOSES OF THIS SUBSECTION (5),
26 "EQUIVALENT", WITH RESPECT TO AN OFFENDER FOUND TO BE A SEXUALLY
27 VIOLENT PREDATOR OR ITS EQUIVALENT, MEANS A SEX OFFENDER

1 CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT
2 LIMITED TO A MILITARY OR FEDERAL JURISDICTION, WHO HAS BEEN
3 ASSESSED OR LABELED AT THE HIGHEST REGISTRATION AND NOTIFICATION
4 LEVEL IN THE JURISDICTION WHERE THE CONVICTION WAS ENTERED AND
5 WHO SATISFIES THE AGE, DATE OF OFFENSE, AND CONVICTION
6 REQUIREMENTS FOR SEXUALLY VIOLENT PREDATOR STATUS PURSUANT TO
7 COLORADO LAW. A SEX OFFENDER CONVICTED IN ANOTHER JURISDICTION
8 WHO IS DESIGNATED AS A SEXUALLY VIOLENT PREDATOR BY THE
9 DEPARTMENT OF PUBLIC SAFETY FOR PURPOSES OF COLORADO LAW SHALL
10 BE NOTIFIED OF HIS OR HER DESIGNATION AND SHALL HAVE THE RIGHT TO
11 APPEAL THE DESIGNATION IN DISTRICT COURT.

12 **SECTION 10.** 16-22-103 (5) (a) (IV), Colorado Revised Statutes,
13 is amended to read:

14 **16-22-103. Sex offender registration - required - applicability**
15 **- exception.** (5) (a) Notwithstanding any provision of this article to the
16 contrary, if, pursuant to a motion filed by a person described in this
17 subsection (5) or on its own motion, a court determines that the
18 registration requirement specified in this section would be unfairly
19 punitive and that exempting the person from the registration requirement
20 would not pose a significant risk to the community, the court, upon
21 consideration of the totality of the circumstances, may exempt the person
22 from the registration requirements imposed pursuant to this section if:

23 (IV) The person has received a sex offender evaluation that
24 conforms with the standards developed pursuant to section 16-11.7-103
25 (4) (f) (h), from an evaluator who meets the standards established by the
26 sex offender management board, and the evaluator recommends
27 exempting the person from the registration requirements based upon the

1 best interests of that person and the community; and

2 **SECTION 11.** 24-33.5-503 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **24-33.5-503. Duties of division.** (1) The division has the
5 following duties:

6 (p.5) TO RECOMMEND TO THE EXECUTIVE DIRECTOR, IN
7 CONSULTATION WITH THE SEX OFFENDER MANAGEMENT BOARD AND THE
8 COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE, THE
9 PROMULGATION OF RULES CONCERNING TREATMENT STANDARDS FOR
10 ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL
11 OFFENSES, LIFETIME SUPERVISION CRITERIA, AND ELIGIBILITY STANDARDS
12 FOR PERSONS WHO PROVIDE SEX OFFENDER EVALUATION, TREATMENT,
13 AND POLYGRAPH SERVICES PURSUANT TO ARTICLE 11.7 OF TITLE 16,
14 C.R.S. IN PROMULGATING THE RULES, THE EXECUTIVE DIRECTOR SHALL
15 TAKE INTO ACCOUNT THE TREATMENT STANDARDS, LIFETIME SUPERVISION
16 CRITERIA, AND ELIGIBILITY STANDARDS FOR PERSONS WHO PROVIDE SEX
17 OFFENDER EVALUATION, TREATMENT AND POLYGRAPH SERVICES
18 RECOMMENDED BY THE SEX OFFENDER MANAGEMENT BOARD PURSUANT
19 TO SECTION 16-11.7-103 (4), C.R.S., AND THE COLORADO COMMISSION ON
20 CRIMINAL AND JUVENILE JUSTICE. THE EXECUTIVE DIRECTOR SHALL
21 PROMULGATE THE RULES IN ACCORDANCE WITH THE "STATE
22 ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

23 **SECTION 12. Repeal.** 24-34-104 (41) (1), Colorado Revised
24 Statutes, is repealed as follows:

25 **24-34-104. General assembly review of regulatory agencies**
26 **and functions for termination, continuation, or reestablishment.**

27 (41) The following agencies, functions, or both, shall terminate on July

1 1, 2010:

2 (l) ~~The sex offender management board, created by section~~
3 ~~16-11.7-103, C.R.S.;~~

4 **SECTION 13.** 24-34-104 (46), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **24-34-104. General assembly review of regulatory agencies**
7 **and functions for termination, continuation, or reestablishment.**

8 (46) The following agencies, functions, or both shall terminate on July
9 1, 2015:

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

12 ==

13 **SECTION 14. Appropriation - legislative intent.** (1) In
14 addition to any other appropriation, there is hereby appropriated, out of
15 any moneys in the general fund not otherwise appropriated, to the
16 department of public safety, for allocation to the division of criminal
17 justice, for research and reporting functions, for the fiscal year beginning
18 July 1, 2010, the sum of seventeen thousand nine hundred eleven dollars
19 (\$17,911) and 0.3 FTE, or so much thereof as may be necessary, for the
20 implementation of this act.

21 (2) In addition to any other appropriation, there is hereby
22 appropriated, out of any moneys in the general fund not otherwise
23 appropriated, to the department of public safety, for allocation to the
24 division of criminal justice, for information technology consultation, for
25 the fiscal year beginning July 1, 2010, the sum of eighty thousand dollars
26 (\$80,000), or so much thereof as may be necessary, for the
27 implementation of this act.

1 (3) In addition to any other appropriation, there is hereby
2 appropriated, out of any moneys in the general fund not otherwise
3 appropriated, to the department of public safety, for allocation to the
4 division of criminal justice, for legal services, for the fiscal year
5 beginning July 1, 2010, the sum of three thousand fifteen dollars
6 (\$3,015), or so much thereof as may be necessary, for the implementation
7 of this act.

8 (4) In addition to any other appropriation, there is hereby
9 appropriated to the department of law, for the fiscal year beginning July
10 1, 2010, the sum of three thousand fifteen dollars (\$3,015), or so much
11 thereof as may be necessary, for the provision of legal services to the
12 department of public safety related to the implementation of this act. Said
13 sum shall be from reappropriated funds received from the department of
14 public safety out of the appropriation made in subsection (3) of this
15 section.

16 (5) It is the intent of the general assembly that the general fund
17 appropriations for the implementation of this act shall be derived from
18 savings generated from the implementation of the provisions of House
19 Bill 10-1338, as enacted during the second regular session of the
20 sixty-seventh general assembly.

21 **SECTION 15. Effective date.** (1) This act shall take effect upon
22 passage.

23 (2) Notwithstanding the provisions of subsection (1) of this
24 section, sections 7, 11, and 14 of this act shall take effect only if:

25 (a) The final fiscal estimate for House Bill 10-1338, as determined
26 from the appropriations enacted in said bill, shows a net reduction in the
27 amount of general fund revenues appropriated for the state fiscal year

1 2010-11, that is equal to or greater than the amount of the general fund
2 appropriation made for the implementation of this act for the state fiscal
3 year 2010-11, as reflected in section 14 of this act; and

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

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

9 **SECTION 16. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.