

First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0814.01 Michael Dohr x4347

SENATE BILL 17-141

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SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Herod,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING ALLOWING LOW-RISK SEX OFFENDERS TO RECEIVE  
102 REQUIRED SEX OFFENDER TREATMENT IN A COMMUNITY-BASED  
103 PROGRAM.

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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://leg.colorado.gov>.)*

The bill requires the sex offender management board, in collaboration with the department of corrections, the judicial department, and the parole board, and in consultation with sex offender research experts, to establish evidence-based criteria for the release of low-risk offenders. The bill requires the department of corrections to allow a

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.*

low-risk sex offender to complete his or her required treatment in a community-based program if the department does not have sufficient prison-based treatment for the offender. The bill prohibits the parole board from denying parole to a low-risk sex offender because the offender did not complete treatment if the offender is seeking release to complete treatment in a community-based program.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) In a 2013 state-funded external study of the department of  
5 corrections' sex offender treatment and monitoring program (SOTMP),  
6 the study recommended that the department of corrections prioritize sex  
7 offender treatment for inmates while incarcerated based on risk to  
8 sexually reoffend. Yet, a 2016 state audit found that, despite receiving  
9 additional financial resources from the general assembly, the department  
10 has not been able to hire adequate, qualified staff to treat everyone  
11 recommended for sex offender treatment and to implement the  
12 recommendation to prioritize treatment based upon risk.

13 (b) In a 2014 state-funded external study of the sex offender  
14 management board, experts noted "low risk sexual offenders represent a  
15 risk for sexual offending that is about the same as that presented by  
16 nonsexual offenders under supervision";

17 (c) All offenders sent to prison for a sexual offense or for any  
18 nonsexual crime when they have a prior adult or juvenile sex offense are  
19 referred for treatment, regardless of risk;

20 (d) The decision whether to release the offender can turn on  
21 whether the offender has completed sex offender treatment;

22 (e) The 2016 audit found that there are over 1200 offenders on the

1 SOTMP referral list who have passed their parole eligibility date, at an  
2 annual cost to the state of as much as \$44 million for each year that these  
3 offenders continue to be incarcerated. Even if no additional sex offenders  
4 were sentenced to prison, it would take eight more years to process the  
5 current backlog through SOTMP.

6 (f) The result is that there are many prison beds occupied by  
7 low-risk sex offenders waiting for sex offender treatment; and

8 (g) Colorado would be better served by having low-risk sex  
9 offenders start treatment in the community, allowing prison beds to be  
10 used for those offenders who pose a greater public safety risk.

11 (2) Therefore, the general assembly declares that there should be  
12 release criteria for low-risk sex offenders whose risk level makes it  
13 appropriate for them to start sex offense treatment in the community, and  
14 the parole board is encouraged to release those low-risk inmates who  
15 otherwise meet parole criteria, to allow them to undertake treatment in the  
16 community, freeing up prison-based sex offense treatment beds for those  
17 inmates who pose the greatest public safety risk upon release.

18 **SECTION 2.** In Colorado Revised Statutes, 16-11.7-105, **add** (3)  
19 as follows:

20 **16-11.7-105. Sentencing of sex offenders - treatment based**  
21 **upon evaluation and identification required.** (3) FOR AN ADULT SEX  
22 OFFENDER SENTENCED TO INCARCERATION IN THE DEPARTMENT OF  
23 CORRECTIONS AND WHO HAS BEEN DETERMINED TO BE LOW RISK TO  
24 SEXUALLY REOFFEND PURSUANT TO THE EVALUATION AND  
25 IDENTIFICATION MADE PURSUANT TO SECTION 16-11.7-104 AND ANY  
26 OTHER EVIDENCE-BASED AND VALIDATED ASSESSMENT OR EVALUATION  
27 CONDUCTED BY THE DEPARTMENT OF CORRECTIONS, WHICH IS DESIGNED

1 TO ASSESS RISK OF SEXUAL RECIDIVISM, AND THE SEX OFFENDER HAS BEEN  
2 RECOMMENDED FOR SEX-OFFENSE-SPECIFIC TREATMENT, THE OFFENDER  
3 SHALL START AND OBTAIN THE RECOMMENDED TREATMENT IN THE  
4 COMMUNITY PLACEMENT PHASE OF THE SEX OFFENDER'S SENTENCE, WHICH  
5 MAY INCLUDE COMMUNITY CORRECTIONS PLACEMENT, INTENSIVE  
6 SUPERVISION PAROLE, INMATE STATUS, PAROLE, OR OTHER SIMILAR  
7 COMMUNITY-BASED PHASE OF A SENTENCE TO INCARCERATION; EXCEPT  
8 THAT THE OFFENDER MAY RECEIVE THE NECESSARY TREATMENT WHILE IN  
9 PRISON IF THE DEPARTMENT OF CORRECTIONS HAS SUFFICIENT AND  
10 APPROPRIATE PRISON-BASED TREATMENT BEDS THAT WOULD REASONABLY  
11 ALLOW THE OFFENDER TO COMPLETE THE RECOMMENDED TREATMENT  
12 PROGRAM OR THE RECOMMENDED PORTION OF THE TREATMENT PROGRAM  
13 PRIOR TO THE OFFENDER'S FIRST PAROLE ELIGIBILITY DATE.

14 **SECTION 3.** In Colorado Revised Statutes, 17-22.5-403, **amend**  
15 (7)(a) as follows:

16 **17-22.5-403. Parole eligibility - repeal.** (7) (a) For any offender  
17 who is incarcerated for an offense committed on or after July 1, 1993,  
18 upon application for parole, the state board of parole, working in  
19 conjunction with the department and using the guidelines established  
20 pursuant to section 17-22.5-404, shall determine whether or not to grant  
21 parole. FOR ANY SEX OFFENDER DETERMINED TO BE LOW RISK TO  
22 SEXUALLY REOFFEND PURSUANT TO THE EVALUATION DESCRIBED IN  
23 SECTION 16-11.7-105 (3) AND ANY OTHER EVIDENCED-BASED AND  
24 VALIDATED ASSESSMENT OR EVALUATION CONDUCTED BY THE  
25 DEPARTMENT OF CORRECTIONS, WHICH IS DESIGNED TO ASSESS THE RISK  
26 OF SEXUAL RECIDIVISM, AND FOR WHOM THE DEPARTMENT OF  
27 CORRECTIONS IS RECOMMENDING THE SEX OFFENDER'S RELEASE TO

1 PAROLE SO THAT THE SEX OFFENDER CAN RECEIVE THE RECOMMENDED  
2 TREATMENT IN THE COMMUNITY, THE PAROLE BOARD SHALL NOT DENY  
3 PAROLE TO THE SEX OFFENDER FOR FAILURE TO START OR COMPLETE  
4 TREATMENT WITHIN THE DEPARTMENT. The state board of parole, if it  
5 determines that placing an offender on parole is appropriate, shall set the  
6 length of the period of parole at the mandatory period of parole  
7 established in section 18-1.3-401 (1)(a)(V) or 18-1.3-401.5 (2)(a), ~~C.R.S.~~,  
8 except as otherwise provided for specified offenses in section 17-2-201  
9 (5)(a), (5)(a.5), and (5)(a.7).

10 **SECTION 4.** In Colorado Revised Statutes, 17-22.5-404, **amend**  
11 (4)(a)(IV) and (4)(c)(II) as follows:

12 **17-22.5-404. Parole guidelines.** (4) (a) In considering offenders  
13 for parole, the state board of parole shall consider the totality of the  
14 circumstances, which include, but need not be limited to, the following  
15 factors:

16 (IV) The offender's program or treatment participation and  
17 progress, BUT FOR ANY SEX OFFENDER DETERMINED TO BE LOW RISK TO  
18 SEXUALLY REOFFEND PURSUANT TO THE EVALUATION AS DESCRIBED IN  
19 SECTION 16-11.7-105 (3) AND ANY OTHER EVIDENCED-BASED AND  
20 VALIDATED ASSESSMENT OR EVALUATION CONDUCTED BY THE  
21 DEPARTMENT OF CORRECTIONS, WHICH IS DESIGNED TO ASSESS THE RISK  
22 OF SEXUAL RECIDIVISM, AND FOR WHOM THE DEPARTMENT OF  
23 CORRECTIONS IS RECOMMENDING THE SEX OFFENDER'S RELEASE TO  
24 PAROLE SO THAT THE SEX OFFENDER CAN RECEIVE THE RECOMMENDED  
25 TREATMENT IN THE COMMUNITY, THE PAROLE BOARD SHALL NOT DENY  
26 PAROLE TO THE SEX OFFENDER FOR FAILURE TO START OR COMPLETE  
27 TREATMENT WITHIN THE DEPARTMENT;

1 (c)(II) The administrative release guideline instrument shall not  
2 be used in considering those inmates classified as sex offenders with  
3 indeterminate sentences for whom the sex offender management board  
4 pursuant to section 18-1.3-1009, ~~C.R.S.~~, has established separate and  
5 distinct release guidelines. The sex offender management board in  
6 collaboration with the department of corrections, the judicial department,  
7 the division of criminal justice in the department of public safety, and the  
8 state board of parole shall develop a specific sex offender release  
9 guideline instrument for use by the state board of parole for those inmates  
10 classified as sex offenders with determinate sentences. ON OR BEFORE  
11 OCTOBER 1, 2017, THE SEX OFFENDER MANAGEMENT BOARD, IN  
12 COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL  
13 DEPARTMENT, AND THE PAROLE BOARD, IN CONSULTATION WITH EXPERT  
14 PROFESSIONAL RESEARCHERS WORKING IN THE AREA OF SEX OFFENDER  
15 TREATMENT, AND AFTER A REVIEW OF THE RELEVANT RESEARCH, SHALL  
16 ESTABLISH EVIDENCE-BASED CRITERIA FOR THE RELEASE OF A LOW-RISK  
17 SEX OFFENDER FOR TREATMENT IN THE COMMUNITY PURSUANT TO THE  
18 CIRCUMSTANCES DESCRIBED IN SECTION 16-11.7-105(3) AND CONSISTENT  
19 WITH THE PROVISIONS OF SECTION 18-1.3-1006 (1)(a)(II), THEREBY  
20 ALLOWING THE LOW-RISK OFFENDER TO BE RELEASED TO THE COMMUNITY  
21 OR ON PAROLE TO START TREATMENT WHILE SERVING THE  
22 COMMUNITY-BASED PORTION OF HIS OR HER SENTENCE. THE PAROLE  
23 BOARD SHALL CONSIDER THESE CRITERIA IN MAKING DECISIONS  
24 CONCERNING THE RELEASE OF A SEX OFFENDER.

25 **SECTION 5.** In Colorado Revised Statutes, 18-1.3-1006, **amend**  
26 (1)(a) as follows:

27 **18-1.3-1006. Release from incarceration - parole - conditions.**

1 (1) (a) (I) On completion of the minimum period of incarceration  
2 specified in a sex offender's indeterminate sentence, less any earned time  
3 credited to the sex offender pursuant to section 17-22.5-405, ~~C.R.S.~~, the  
4 parole board shall schedule a hearing to determine whether the sex  
5 offender may be released on parole. In determining whether to release the  
6 sex offender on parole, the parole board shall determine whether the sex  
7 offender has successfully progressed in treatment and would not pose an  
8 undue threat to the community if released under appropriate treatment and  
9 monitoring requirements and whether there is a strong and reasonable  
10 probability that the person will not thereafter violate the law. The  
11 department shall make recommendations to the parole board concerning  
12 whether the sex offender should be released on parole and the level of  
13 treatment and monitoring that should be imposed as a condition of parole.  
14 The recommendation shall be based on the criteria established by the  
15 management board pursuant to section 18-1.3-1009.

16 (II) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a)(I)  
17 OF THIS SECTION, IF A SEX OFFENDER IS DETERMINED TO BE LOW RISK TO  
18 SEXUALLY REOFFEND PURSUANT TO THE EVALUATION DESCRIBED IN  
19 SECTION 16-11.7-105 (3) AND ANY OTHER EVIDENCE-BASED AND  
20 VALIDATED ASSESSMENT OR EVALUATION CONDUCTED BY THE  
21 DEPARTMENT OF CORRECTIONS, WHICH IS DESIGNED TO ASSESS THE RISK  
22 OF SEXUAL RECIDIVISM, THE SEX OFFENDER HAS COMPLETED THE MINIMUM  
23 PERIOD OF INCARCERATION SPECIFIED IN THE SEX OFFENDER'S  
24 INDETERMINATE SENTENCE, AND THE DEPARTMENT OF CORRECTIONS IS  
25 RECOMMENDING THE SEX OFFENDER'S RELEASE TO PAROLE SO THAT THE  
26 SEX OFFENDER CAN RECEIVE RECOMMENDED TREATMENT IN THE  
27 COMMUNITY, THE PAROLE BOARD SHALL NOT DENY PAROLE TO THE SEX

1 OFFENDER FOR FAILURE TO START OR COMPLETE TREATMENT WITHIN THE  
2 DEPARTMENT. NOTHING IN THIS SECTION LIMITS THE AUTHORITY OF THE  
3 PAROLE BOARD TO REVOKE PAROLE OF A SEX OFFENDER SENTENCED TO AN  
4 INDETERMINATE SENTENCE IF THE OFFENDER FAILS TO COOPERATE WITH,  
5 PROGRESS IN, OR COMPLETE TREATMENT WITHIN THE COMMUNITY.

6 **SECTION 6.** In Colorado Revised Statutes, 18-1.3-1009, **add** (2)  
7 as follows:

8 **18-1.3-1009. Criteria for release from incarceration, reduction**  
9 **in supervision, and discharge.** (2) NOTWITHSTANDING THE PROVISIONS  
10 OF SUBSECTION (1) OF THIS SECTION, ON OR BEFORE OCTOBER 1, 2017, THE  
11 MANAGEMENT BOARD, IN COLLABORATION WITH THE DEPARTMENT OF  
12 CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE PAROLE BOARD, IN  
13 CONSULTATION WITH EXPERT PROFESSIONAL RESEARCHERS WORKING IN  
14 THE AREA OF SEX OFFENDER TREATMENT, AND AFTER A REVIEW OF THE  
15 RELEVANT RESEARCH, SHALL ESTABLISH EVIDENCE-BASED CRITERIA FOR  
16 THE RELEASE OF A LOW-RISK SEX OFFENDER FOR TREATMENT IN THE  
17 COMMUNITY PURSUANT TO THE CIRCUMSTANCES DESCRIBED IN SECTION  
18 16-11.7-105 (3) AND CONSISTENT WITH THE PROVISIONS OF SECTION  
19 18-1.3-1006 (1)(a)(II), THEREBY ALLOWING THE LOW-RISK OFFENDER TO  
20 BE RELEASED TO THE COMMUNITY OR ON PAROLE TO START TREATMENT  
21 WHILE SERVING THE COMMUNITY-BASED PORTION OF HIS OR HER  
22 SENTENCE. THE PAROLE BOARD SHALL CONSIDER THESE CRITERIA IN  
23 MAKING DECISIONS CONCERNING THE RELEASE OF A SEX OFFENDER.

24 **SECTION 7. Act subject to petition - effective date.** This act  
25 takes effect at 12:01 a.m. on the day following the expiration of the  
26 ninety-day period after final adjournment of the general assembly (August  
27 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the  
2 state constitution against this act or an item, section, or part of this act  
3 within such period, then the act, item, section, or part will not take effect  
4 unless approved by the people at the general election to be held in  
5 November 2018 and, in such case, will take effect on the date of the  
6 official declaration of the vote thereon by the governor.