



**Colorado  
Legislative  
Council  
Staff**

**SB17-141**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0814  
**Prime Sponsor(s):** Sen. Aguilar  
Rep. Herod

**Date:** June 28, 2017  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** LOW-RISK SEX OFFENDER COMMUNITY-BASED TREATMENT

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		
General Fund	Reduction - see State Expenditures section.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing reduction in state expenditures.		

**NOTE:** This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Summary of Legislation**

On or before October 1, 2017, this bill requires the Sex Offender Management Board (SOMB), in collaboration with the Department of Corrections (DOC), Judicial Department, the Parole Board, and experts, to establish evidence-based criteria for the release of a low-risk sex offender for treatment in the community.

This bill directs the DOC to place low-risk sex offenders that have been recommended for sex-offense-specific treatment in the recommended treatment program during the community placement phase of the sex offender's sentence. The community placement phase may include community corrections placement, intensive supervision parole, inmate status (other location), parole, or another similar status. Treatment may begin while incarcerated if sufficient beds are available in prison and the treatment can be completed prior to the offender's first parole eligibility date.

The Parole Board is directed not to deny parole to a low-risk sex offender solely on the basis of failing to start or complete treatment within the DOC. The bill clarifies that the Parole Board may still revoke the parole of a sex offender sentenced to an indeterminate sentence if that offender fails to cooperate with, progress in, or complete treatment in the community.

## **Background**

**Sex offenders.** There are two categories of sex offenders in the DOC: those with determinate sentences and those with indeterminate sentences (the latter are sentenced under the Lifetime Supervision of Sex Offenders Act). Sex offenders with a determinate sentence have a mandatory release date by which they must be released from prison and placed under parole supervision, whether or not treatment has been completed. There is no mandatory release date for lifetime supervision offenders, although these offenders are eligible to be considered for parole when they reach the lower bound of the sentence, as reduced by any earned time.

**Protocols and treatment.** The Sex Offender Management Program was significantly restructured between FY 2013-14 and FY 2014-15 in response to a 2012 audit. Currently, sex offenders are supposed to be given an initial assessment upon entry to prison. The assessment tool used is called the Static 99-R and is administered at the Denver Diagnostic and Reception Center. Offenders are then placed in the sex offender management program and follow the "Risk, Needs, and Responsivity" therapeutic model, which includes a number of treatment protocols and other assessments as treatment progresses. Offenders can be released to parole if they meet the criteria established by the SOMB.

At the beginning of 2016, approximately 1,980 sex offenders were awaiting treatment (up from 1,527 in 2012). A December 2016 audit revealed a significant number of missing sex offender risk assessments and concerns about program staffing and clear guidelines for prioritizing the treatment of sex offenders. In its January 2017 hearing with the Joint Budget Committee, the DOC described several conditions which impede the completion of sex offender treatment including difficulty hiring and retaining staff to work within DOC facilities and an insufficient number of treatment beds and providers in the community. The DOC noted that it does not have a treatment wait list. According to the department, a global referral list is used to prioritize treatment based on parole eligibility date, ongoing comprehensive risk assessment, and willingness to participate in treatment. Currently, there are 386 lifetime supervision offenders on this list, with 161 past their parole eligibility date. It is not known how many of these offenders would be classified as low-risk and eligible for release as described in SB17-141, but 67 of the 161 have met participation requirements and are considered ready for treatment.

## **State Expenditures**

Beginning in FY 2017-18, this bill is expected to decrease state General Fund costs for the DOC by an indeterminate amount.

**Evidence-based criteria for releases.** The bill directs the SOMB, DOC, Judicial Department, and Parole Board to conduct research and consult with experts to establish evidence-based criteria for the release of a low-risk sex offender for treatment in the community. Staff of these agencies already coordinate and work on projects together, and have identified this work as a priority for 2017. As such, the fiscal note assumes that any additional work required under this bill is minimal.

**Savings for the DOC.** Once new criteria are established, this bill may reduce state expenditures if additional low-risk offenders are moved out of prison and into a parole or community corrections program. An incarcerated offender participating in the sex offender management program costs the state about \$36,000 per year. The exact cost for a sex offender on parole is not available as of this writing, but the overall cost for a parolee is about \$4,600 per year, not including

administrative overhead or any community-based treatment. Because it is unknown how many offenders would qualify for classification as low-risk and to which group the new protocol applies, the amount of any savings has not been estimated. Please refer to the Technical Note for additional information.

### **Technical Note**

The bill describes a process for developing new criteria to assess and release low-risk sex offenders for treatment within the community rather than having those offenders remain incarcerated until treatment is completed. The bill is silent on whether or not the changes apply to offenders currently incarcerated, if it begins after the new criteria and processes are developed in October 2017, or if it only applies to offenders who are received after the new criteria are in place. The bill, which is supplanting the current SOMB criteria and processes, also does not specify at what stage of incarceration an evaluation of a sex offender is to be made. Finally, the bill does not specify what is to occur if there are no available community placement beds or providers available. The fiscal note assumes that those offenders would remain on parole for a greater length of time, which may further reduce savings achieved as a result of being released from prison. These impacts have not been estimated.

### **Effective Date**

The bill was postponed indefinitely by the Senate Judiciary Committee on February 22, 2017.

### **State and Local Government Contacts**

Corrections  
Judicial

District Attorneys  
Public Safety

Information Technology