

SENATE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 17, 2023
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB23-164 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 2, after line 1 insert:

2 "SECTION 1. In Colorado Revised Statutes, 16-11-102, amend
3 (1)(b)(I) introductory portion as follows:

4 **16-11-102. Presentence or probation investigation.** (1)
5 (b) (I) Each presentence report prepared regarding a sex offender, as
6 defined in ~~section 16-11.7-102 (2)~~ SECTION 16-11.7-102 (2)(a)(I) TO
7 (2)(a)(III), OR IF REQUESTED BY THE PROSECUTING ATTORNEY OR COURT
8 FOR A PERSON WHO MAY BE DETERMINED TO BE A SEX OFFENDER BASED
9 UPON A PRIOR OFFENSE PURSUANT TO SECTION 16-11.7-102 (2)(a)(IV),
10 with respect to any offense committed on or after January 1, 1996, shall
11 MUST contain the results of an evaluation and identification conducted
12 pursuant to article 11.7 of this ~~title~~ TITLE 16; except that:

13 **SECTION 2.** In Colorado Revised Statutes, 16-11.7-102, amend
14 (1), (1.5), and (2)(a) as follows:

15 **16-11.7-102. Definitions.** As used in this article 11.7, unless the
16 context otherwise requires:

17 (1) "Adult sex offender" means a person who has been convicted,
18 as described in ~~subparagraphs (I) to (III) of paragraph (a) of subsection~~
19 ~~(2)~~ SUBSECTIONS (2)(a)(I) TO (2)(a)(III) of this section, of a sex offense,
20 BUT DOES NOT INCLUDE A PERSON WHO MEETS THE DEFINITION OF A
21 "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE", AS DEFINED IN
22 SUBSECTION (1.5) OF THIS SECTION, UNLESS THE PERSON HAS ALSO BEEN
23 CONVICTED OF A SEX OFFENSE COMMITTED ON OR AFTER THE DAY THE
24 PERSON ATTAINED EIGHTEEN YEARS OF AGE OR WHO IS SENTENCED FOR A
25 SEX OFFENSE ON OR AFTER THE PERSON ATTAINED TWENTY-ONE YEARS OF
26 AGE.

27 (1.5) "Juvenile who has committed a sexual offense" means a

1 juvenile who WAS LESS THAN EIGHTEEN YEARS OF AGE AT THE TIME OF
2 THE SEXUAL OFFENSE AND WHO has been adjudicated as a juvenile or who
3 receives a deferred adjudication OR WHO IS SENTENCED PRIOR TO
4 ATTAINING TWENTY-ONE YEARS OF AGE AFTER BEING CRIMINALLY
5 CONVICTED IN THE DISTRICT COURT PURSUANT TO SECTION 19-2-517 OR
6 19-2-518 on or after July 1, 2002, OR SECTION 19-2.5-801 OR 19-2.5-802,
7 ON OR AFTER OCTOBER 1, 2021, for an offense that would constitute a sex
8 offense, as defined in subsection (3) of this section, if committed as an
9 adult, or a juvenile who has committed any offense, the underlying factual
10 basis of which involves a sex offense.

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

12 (I) Convicted in the state of Colorado, on or after January 1, 1994,
13 of any sex offense as defined in subsection (3) of this section; or

14 ~~(II) Convicted in the state of Colorado on or after January 1, 1994,~~
15 ~~of any criminal offense, if such person has previously been convicted of~~
16 ~~a sex offense as described in subsection (3) of this section in the state of~~
17 ~~Colorado, or if such person has previously been convicted in any other~~
18 ~~jurisdiction of any offense that would constitute a sex offense as defined~~
19 ~~in subsection (3) of this section, or if such person has a history of any sex~~
20 ~~offenses as defined in subsection (3) of this section; or~~

21 ~~(HH) (II) Convicted in the state of Colorado on or after July 1,~~
22 ~~2000, of any criminal offense, the underlying factual basis of which~~
23 ~~involves a sex offense; or~~

24 ~~(IV) (III) A juvenile who has committed a sexual offense; OR~~

25 (IV) A PERSON WHO:

26 (A) WAS EVALUATED BECAUSE OF A DISCRETIONARY REQUEST BY
27 A PROSECUTING ATTORNEY OR COURT PURSUANT TO SECTION 16-11-102;
28 AND

29 (B) A COURT DETERMINES SHOULD UNDERGO SEX OFFENDER
30 TREATMENT BASED UPON THE RECOMMENDATIONS OF THE EVALUATION
31 AND IDENTIFICATION PURSUANT TO SECTION 16-11.7-104; AND

32 (C) IS CONVICTED IN THE STATE OF COLORADO ON OR AFTER
33 JANUARY 1, 1994, OF ANY CRIMINAL OFFENSE, AND IF SUCH PERSON HAS
34 PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE IN COLORADO OR ANY
35 OTHER JURISDICTION OR HAS A HISTORY OF ANY SEX OFFENSES, AS SEX
36 OFFENSE IS DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND, IF THE
37 PERSON HAS PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE AS DEFINED
38 IN SUBSECTION (3) OF THIS SECTION, IN THE STATE OF COLORADO; OR IF
39 THE PERSON HAS PREVIOUSLY BEEN CONVICTED IN ANY OTHER
40 JURISDICTION OF ANY OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE
41 AS DEFINED IN SUBSECTION (3) OF THIS SECTION; OR IF THE PERSON HAS A
42 HISTORY OF ANY SEX OFFENSES AS DEFINED IN SUBSECTION (3) OF THIS
43 SECTION."

1 Renumber succeeding sections accordingly.

2 Page 2, line 3, strike "(6);" and substitute "(4)(b)(I), (4)(j)(I), (4)(m), and
3 (6);".

4 Page 2, after line 6 insert:

5 **"(b) Guidelines and standards for treatment of adult**
6 **offenders.** (I) The board shall develop, implement, and revise, as
7 appropriate, guidelines and standards to treat adult sex offenders,
8 including adult sex offenders with intellectual and developmental
9 disabilities, incorporating in the guidelines and standards the concepts of
10 the risk-need-responsivity or another evidence-based correctional model,
11 which guidelines and standards can be used in the treatment of offenders
12 who are placed on probation, incarcerated with the department of
13 corrections, placed on parole, or placed in community corrections.
14 Programs implemented pursuant to the guidelines and standards
15 developed pursuant to this subsection (4)(b) must be as flexible as
16 possible so that the programs may be accessed by each adult sex offender
17 to prevent the offender from harming victims and potential victims.
18 Programs must include a continuing monitoring process and a continuum
19 of treatment options available to an adult sex offender as ~~he or she~~ THE
20 OFFENDER proceeds through the criminal justice system. Treatment
21 options must be determined by a current risk assessment and evaluation
22 and may include, but need not be limited to, group counseling, individual
23 counseling, family counseling, outpatient treatment, inpatient treatment,
24 shared living arrangements, or treatment in a therapeutic community.
25 Programs implemented pursuant to the guidelines and standards
26 developed pursuant to this subsection (4)(b) must, to the extent possible,
27 be accessible to all adult sex offenders in the criminal justice system,
28 including those offenders with behavioral, mental health, and
29 co-occurring disorders AND MUST ENSURE, TO THE EXTENT POSSIBLE,
30 THAT TREATMENT IS RESPONSIVE TO THE AGE AND DEVELOPMENTAL
31 STATUS OF THE OFFENDER AT THE TIME OF TREATMENT, AS WELL AS THE
32 LINGUISTIC, CULTURAL, RELIGIOUS, AND RACIAL CHARACTERISTICS;
33 SEXUAL ORIENTATION, AS DEFINED IN SECTION 24-34-301; GENDER
34 IDENTITY, AS DEFINED IN SECTION 24-34-301; AND GENDER EXPRESSION,
35 AS DEFINED IN SECTION 24-34-301, OF THE OFFENDERS SERVED. The
36 procedures for evaluation, identification, treatment, and monitoring
37 developed pursuant to this subsection (4) must be implemented only to
38 the extent that money is available in the sex offender surcharge fund
39 created in section 18-21-103 (3).".

1 Page 2, after line 10 insert:

2 "(j) (I) **Guidelines and standards for treatment of juveniles**
3 **who have committed a sexual offense.** The board shall develop,
4 implement, and revise, as appropriate, guidelines and standards to treat
5 juveniles who have committed A sexual ~~offenses~~ OFFENSE, including
6 juveniles with intellectual and developmental disabilities, incorporating
7 in the guidelines and standards the concepts of the risk-need-responsivity
8 or another evidence-based correctional model, which guidelines and
9 standards may be used for ~~juvenile offenders~~ JUVENILES who are placed
10 on probation, committed to the department of human services,
11 SENTENCED TO COMMUNITY CORRECTIONS, SENTENCED TO THE
12 DEPARTMENT OF CORRECTIONS, placed on parole, or placed in
13 out-of-home placement. Programs implemented pursuant to the guidelines
14 and standards developed pursuant to this subsection (4)(j) must be as
15 flexible as possible so that the programs may be accessed by each juvenile
16 ~~offender~~ to prevent ~~him or her~~ THE JUVENILE from harming victims and
17 potential victims. Programs must provide a continuing monitoring process
18 and a continuum of treatment options available ~~to~~ AS a juvenile ~~offender~~
19 ~~as he or she~~ proceeds through the juvenile OR CRIMINAL justice system.
20 Treatment options may include, but need not be limited to, group
21 counseling, individual counseling, family counseling, outpatient
22 treatment, inpatient treatment, shared living arrangements, and treatment
23 in a therapeutic community. Programs implemented pursuant to the
24 guidelines and standards developed pursuant to this subsection (4)(j) must
25 be, to the extent possible, accessible to all juveniles who have committed
26 sexual offenses and who are in the juvenile OR CRIMINAL justice system,
27 including juveniles with behavioral, mental health, or co-occurring
28 disorders AND MUST ENSURE, TO THE EXTENT POSSIBLE, THAT TREATMENT
29 IS RESPONSIVE TO THE AGE AND DEVELOPMENTAL STATUS OF THE
30 JUVENILE AT THE TIME OF TREATMENT, AS WELL AS THE LINGUISTIC,
31 CULTURAL, RELIGIOUS, AND RACIAL CHARACTERISTICS; SEXUAL
32 ORIENTATION, AS DEFINED IN SECTION 24-34-301; GENDER IDENTITY, AS
33 DEFINED IN SECTION 24-34-301; AND GENDER EXPRESSION, AS DEFINED IN
34 SECTION 24-34-301, OF THE JUVENILES SERVED.

35 (m) **Release guideline instrument for sex offenders with**
36 **determinate sentences.** (I) ON OR BEFORE DECEMBER 1, 2023, AND AS
37 INDICATED THEREAFTER, THE BOARD, IN COLLABORATION WITH THE STATE
38 BOARD OF PAROLE, SHALL REVISE THE SPECIFIC SEX OFFENDER RELEASE
39 GUIDELINE INSTRUMENT, AS REQUIRED BY SECTION 17-22.5-404 (4)(c)(II),
40 FOR USE BY THE STATE BOARD OF PAROLE FOR THOSE INMATES CLASSIFIED
41 AS SEX OFFENDERS WITH DETERMINATE SENTENCES. THE REVISED
42 RELEASE GUIDELINE INSTRUMENT MUST INCORPORATE THE CONCEPTS OF

1 RISK-NEED-RESPONSIVITY OR ANOTHER EVIDENCE-BASED CORRECTIONAL
2 MODEL AND MUST BE AS FLEXIBLE AS POSSIBLE TO ENSURE THAT THE
3 PROGRAMS NECESSARY CAN BE TIMELY ACCESSED BY THE ADULT SEX
4 OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS OR
5 POTENTIAL VICTIMS. THE REVISED RELEASE GUIDELINE INSTRUMENT MUST
6 CONSIDER THE INTERSECTION OF THE GUIDELINE INSTRUMENT WITH THE
7 FACTORS OUTLINED IN SECTION 17-22.5-404 (4)(a); HOWEVER, THE
8 RELEASE GUIDELINE INSTRUMENT MUST NOT INCLUDE THE OFFENDER'S
9 INABILITY TO ACCESS TREATMENT DURING INCARCERATION, WHEN
10 DETERMINED TO BE ELIGIBLE FOR TREATMENT WITHIN THE DEPARTMENT
11 OF CORRECTIONS, AS A BASIS FOR DENIAL OF PAROLE.

12 (II) IN DEVELOPING THE REVISED RELEASE GUIDELINE
13 INSTRUMENT, THE BOARD SHALL CONSIDER CURRENT RESEARCH,
14 INFORMATION, AND DATA REGARDING:

15 (A) FACTORS CONSISTENT WITH THE OFFENDER'S INDIVIDUAL
16 STATIC AND DYNAMIC RISK AND WHETHER PARTICIPATION IN TREATMENT
17 WHILE INCARCERATED WILL SIGNIFICANTLY REDUCE THE RISK PRIOR TO
18 RELEASE;

19 (B) THE MOST EFFECTIVE USE OF LIMITED TREATMENT RESOURCES
20 WITHING THE DEPARTMENT OF CORRECTIONS;

21 (C) THE AVAILABILITY OR LACK OF AVAILABILITY OF TREATMENT
22 DURING INCARCERATION FOR OFFENDERS WITH DETERMINATE SENTENCES
23 WHO MIGHT OTHERWISE BE ELIGIBLE FOR RELEASE PURSUANT TO SECTION
24 17-22.5-404 (4)(a); AND

25 (D) THE EFFICACY OF TREATMENT AS A CONDITION OF COMMUNITY
26 SUPERVISION ON PAROLE."

27 Page 2, line 12, strike "2030." and substitute "2028."

28 Page 2, after line 13 insert:

29 "SECTION 4. In Colorado Revised Statutes, 16-11.7-104, amend
30 (1) as follows:

31 **16-11.7-104. Sex offenders - evaluation and identification**
32 **required.** (1) WHEN REQUIRED AS PART OF THE PRESENTENCE OR
33 PROBATION INVESTIGATION PURSUANT TO SECTIONS 16-11-102 (1)(b)(I)
34 AND 16-11.7-102 (2)(a)(I) TO (2)(a)(IV), on and after January 1, 1994,
35 each convicted adult sex offender and juvenile who has committed a
36 sexual offense who is to be considered for probation ~~shall be~~ IS required
37 ~~as a part of the presentence or probation investigation required pursuant~~
38 ~~to section 16-11-102;~~ to submit to an evaluation for treatment, an
39 evaluation for risk, procedures required for monitoring of behavior to
40 protect victims and potential victims, and an identification developed

1 pursuant to section 16-11.7-103 (4)."

2 Renumber succeeding sections accordingly.

3 Page 2, line 15, strike "(2)" and substitute "(2); and **add** (1.5), (1.6), and
4 (3)".

5 Page 3, strike line 1 and substitute "**upon evaluation and identification**
6 **required - subcommittee created.** (1.5) (a) THE DEPARTMENT OF
7 CORRECTIONS SHALL IDENTIFY ALL INMATES WHO ARE CLASSIFIED TO
8 UNDERGO TREATMENT, ARE ELIGIBLE TO RECEIVE TREATMENT PURSUANT
9 TO THE DEPARTMENT OF CORRECTIONS' POLICY, AND HAVE NOT BEEN
10 PROVIDED WITH THE OPPORTUNITY TO UNDERGO TREATMENT WHILE
11 INCARCERATED. FOR EACH INMATE, THE DEPARTMENT OF CORRECTIONS
12 SHALL PROVIDE THE FOLLOWING DATA TO THE BOARD ON OR BEFORE JULY
13 31, 2023:

14 (I) THE INMATE'S DEPARTMENT OF CORRECTIONS IDENTIFICATION
15 NUMBER;

16 (II) THE DATE OF THE INMATE'S SENTENCE, THE CRIME OF
17 CONVICTION, AND LENGTH OF THE SENTENCE, INCLUDING LENGTH OF
18 PAROLE;

19 (III) WHETHER THE SENTENCE TO THE DEPARTMENT OF
20 CORRECTIONS WAS A RESULT OF A PROBATION OR COMMUNITY PAROLE
21 REVOCATION;

22 (IV) THE DATE THE INMATE WAS PLACED ON THE GLOBAL
23 REFERRAL LIST AS ESTABLISHED BY THE DEPARTMENT OF CORRECTIONS;

24 (V) THE ACTUAL OR PROJECTED PAROLE ELIGIBILITY DATE AND
25 MANDATORY RELEASE DATE, AS OF JULY 31, 2023, AS WELL AS A RECORD
26 OF THE INMATE'S TREATMENT OR WHETHER THE INMATE HAS BEEN PLACED
27 IN THE MAINTENANCE PHASE; AND

28 (VI) THE DEPARTMENT OF CORRECTIONS S5 QUALIFIER CODE FOR
29 THE INMATE, IF ANY.

30 (b) THE DEPARTMENT OF CORRECTIONS SHALL FURTHER IDENTIFY,
31 IN WRITING:

32 (I) IN THE AGGREGATE, VALIDATED STATIC RISK ASSESSMENT
33 SCORES OF THE INMATES DESCRIBED IN THIS SECTION, IF AVAILABLE,
34 SEPARATELY IDENTIFYING THOSE SERVING INDETERMINATE AND
35 DETERMINATE SENTENCES;

36 (II) THE TOTAL TREATMENT CAPACITY IN THE DEPARTMENT OF
37 CORRECTIONS AND, FOR EACH FACILITY PROVIDING SEX OFFENDER
38 TREATMENT AND MONITORING PROGRAM TREATMENT SERVICES, THE
39 TREATMENT PROGRAM CAPACITY AND THE PHASES OR TRACKS OF
40 TREATMENT OFFERED;

1 (III) THE NAMES OF ALL BOARD-APPROVED PROVIDERS EMPLOYED
2 BY OR CONTRACTING WITH THE DEPARTMENT OF CORRECTIONS, THE
3 AMOUNT OF TIME EACH PROVIDER OR CONTRACTOR HAS BEEN WORKING
4 WITH THE DEPARTMENT OF CORRECTIONS, AND AT WHICH LOCATION EACH
5 PROVIDER OR CONTRACTOR IS PROVIDING SERVICES EACH MONTH;

6 (IV) THE FREQUENCY OF SEX OFFENDER TREATMENT AND
7 MONITORING PROGRAM TREATMENT GROUPS AND THE FREQUENCY OF
8 CANCELLATION OF SUCH GROUPS IN ALL FACILITIES;

9 (V) THE NUMBER OF OPEN POSITIONS FOR ANY SEX OFFENDER
10 TREATMENT AND MONITORING PROGRAM PROVIDERS, INCLUDING GROUP
11 THERAPY POSITIONS, POLYGRAPH PROVIDERS, OR ANY OTHER POSITIONS
12 NECESSARY TO OPERATE THE PROGRAM; AND

13 (VI) ANY AND ALL EFFORTS MADE BY THE DEPARTMENT OF
14 CORRECTIONS IN THE PAST FIVE YEARS TO INCREASE THE CAPACITY OF THE
15 SEX OFFENDER TREATMENT AND MONITORING PROGRAM, FILL AND
16 MAINTAIN THE ALLOCATED FULL-TIME OR CONTRACT POSITIONS, AND ANY
17 DATA AVAILABLE TO ADDRESS ANY HIRING CHALLENGES IDENTIFIED BY
18 THE DEPARTMENT.

19 (c) THE DEPARTMENT OF CORRECTIONS SHALL PROVIDE THIS DATA
20 TO THE BOARD PRIOR TO JULY 31, 2023. THE BOARD SHALL FORM A
21 SUBCOMMITTEE WITH REPRESENTATIVES FROM THE BOARD, COMMUNITY
22 SEX OFFENDER TREATMENT PROVIDERS, THE DEPARTMENT OF
23 CORRECTIONS, THE DIVISION OF ADULT PAROLE IN THE DEPARTMENT OF
24 CORRECTIONS, AND THE STATE PAROLE BOARD CREATED PURSUANT TO
25 SECTION 17-2-201. THE PURPOSE OF THE SUBCOMMITTEE IS TO DEVELOP
26 SOLUTIONS TO ADDRESS TREATMENT RESOURCES FOR SEX OFFENDERS WHO
27 ARE INCARCERATED OR IN THE CUSTODY OF THE DEPARTMENT OF
28 CORRECTIONS, INCLUDING A LEGAL AND EVIDENCE-BASED ANALYSIS OF
29 INMATES WHO ARE REQUIRED TO PROGRESS IN TREATMENT IN THE
30 DEPARTMENT OF CORRECTIONS PRIOR TO ANY RELEASE PURSUANT TO
31 SECTION 18-1.3-1006 AND THOSE WHO ARE CLASSIFIED BY THE
32 DEPARTMENT OF CORRECTIONS AS AN INMATE WHO IS REQUIRED TO
33 PARTICIPATE IN TREATMENT. THE SUBCOMMITTEE SHALL:

34 (I) ANALYZE THE DATA PROVIDED BY THE DEPARTMENT OF
35 CORRECTIONS AND PREPARE A COMPREHENSIVE REPORT ON THE CURRENT
36 PRISON POPULATION TO IDENTIFY INMATES WHO ARE ELIGIBLE TO RECEIVE
37 TREATMENT, WITH SPECIAL PRIORITY TOWARDS INMATES WHO ARE PAST
38 PAROLE ELIGIBILITY DATE, HAVE NOT BEEN PROVIDED A TREATMENT
39 OPPORTUNITY, AND REQUIRE TREATMENT TO MEET COMMUNITY
40 CORRECTIONS OR PAROLE ELIGIBILITY REQUIREMENTS PURSUANT TO
41 SECTION 18-1.3-301 (1)(f), 18-1.3-1006, AND 17-22.5-404 (4)(c)(II);

42 (II) IDENTIFY ALL BARRIERS THE DEPARTMENT OF CORRECTIONS
43 FACES IN PROVIDING TIMELY ACCESS TO TREATMENT TO INMATES WHO

1 REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS
2 PURSUANT TO SECTIONS 18-1.3-1006 AND 17-22.5-404 (4)(c)(II) AND
3 MAKE RECOMMENDATIONS FOR WORKABLE SOLUTIONS TO INCREASE
4 TREATMENT ACCESS IN THE DEPARTMENT OF CORRECTIONS, INCLUDING
5 EVIDENCE-BASED, VALIDATED PROJECTIONS DEVELOPED IN CONJUNCTION
6 WITH THE DIVISION OF CRIMINAL JUSTICE EXPERTS IN PRISON POPULATION
7 PROJECTIONS, FOR THE DECREASE IN BACKLOG THAT WOULD OCCUR WITH
8 THE IMPLEMENTATION OF ANY SOLUTIONS;

9 (III) DETERMINE WHICH, IF ANY, STANDARDS ARE BARRIERS TO
10 PROVIDING TIMELY ACCESS TO TREATMENT AND MAKE
11 RECOMMENDATIONS CONCERNING CHANGES OR EXCEPTIONS TO THE
12 STANDARDS FOR SEX OFFENDERS INCARCERATED IN THE DEPARTMENT OF
13 CORRECTIONS;

14 (IV) REVIEW AND CONSIDER REVISIONS TO THE DEPARTMENT OF
15 CORRECTIONS POLICIES AND ADMINISTRATIVE REGULATIONS TO PREVENT
16 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES
17 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS;

18 (V) REVIEW THE CRITERIA ESTABLISHED PURSUANT TO SECTION
19 18-1.3-1009 AND MAKE REVISIONS TO POLICIES OF THE DEPARTMENT OF
20 CORRECTIONS AND ADMINISTRATIVE REGULATIONS TO PREVENT
21 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES
22 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS
23 PURSUANT TO SECTION 18-1.3-1006;

24 (VI) REVIEW PAROLE GUIDELINES FOR THOSE INMATES CLASSIFIED
25 AS SEX OFFENDERS WITH DETERMINATE SENTENCES ESTABLISHED
26 PURSUANT TO SECTION 17-22.5-404 AND MAKE REVISIONS AS NECESSARY
27 TO PREVENT UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE
28 TO INMATES WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY
29 REQUIREMENTS;

30 (VII) DETERMINE WHETHER ADDITIONAL TREATMENT PROVIDERS
31 WILL CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO PROVIDE
32 EVALUATION OR TREATMENT SERVICES TO INCARCERATED INDIVIDUALS
33 AND MAKE WORKABLE RECOMMENDATIONS CONCERNING HOW TO
34 IMMEDIATELY INCREASE INMATE ACCESS TO THOSE APPROVED PROVIDERS;

35 (VIII) DETERMINE WHETHER NECESSARY INCREASED FUNDING OR
36 ANY OTHER RESOURCES COULD MAKE ACCESS TO TELEHEALTH TREATMENT
37 VIABLE FOR INMATES AND THE AMOUNT OF INCREASED FUNDING OR
38 RESOURCES NECESSARY TO ACCOMPLISH THIS GOAL; AND

39 (IX) IN CONSIDERATION OF ANY EXISTING TREATMENT BACKLOG
40 AND OF FINITE TREATMENT RESOURCES, MAKE RECOMMENDATIONS FOR
41 PROCURING OR MAKING AVAILABLE SUFFICIENT TREATMENT RESOURCES
42 WITHOUT NEGATIVELY IMPACTING PUBLIC SAFETY AND PROTECTION OF
43 VICTIMS.

1 (X) THE SUBCOMMITTEE CREATED IN SUBSECTION (1.5)(c) OF THIS
2 SECTION SHALL PRESENT ITS WRITTEN FINDINGS IN A REPORT AND
3 PROPOSAL TO THE JUDICIARY COMMITTEES OF THE HOUSE OF
4 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON
5 OR BEFORE FEBRUARY 1, 2024. THE DEPARTMENT OF CORRECTIONS AND
6 THE PAROLE BOARD SHALL COMMENT ON THE REPORT'S FINDINGS AND
7 RECOMMENDATIONS ON OR BEFORE MARCH 1, 2024.

8 (2) For offenders who".

9 Page 3, line 2, strike "August 10, 2016," and substitute "~~August 10, 2016~~
10 THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS AMENDED,".

11 Page 3, lines 5 and 6, strike "THE COMPLETE LIST OF treatment provider
12 agencies staffed by approved providers." and substitute "~~treatment
13 provider agencies staffed by approved providers~~".

14 Page 3, line 12, before "Once" insert "ACCESS TO A COMPLETE LIST OF
15 TREATMENT PROVIDERS WHO ARE APPROVED PURSUANT TO SECTION
16 16-11.7-106 AND WHO HAVE THE EXPERTISE TO WORK WITH THE SPECIFIC
17 RISKS AND NEEDS OF THAT PARTICULAR OFFENDER. THE SUPERVISING
18 AGENCY SHALL ALSO MAKE SPECIFIC RECOMMENDATIONS TO THE
19 OFFENDER. WHEN MAKING A LIST OF REFERRALS, THE SUPERVISING
20 AGENCY SHALL CONSIDER THE INDIVIDUAL RISKS AND TREATMENT NEEDS
21 OF THE PARTICULAR OFFENDER, ABILITY OF THE TREATMENT PROVIDER TO
22 ACCEPT NEW CLIENTS, GEOGRAPHIC PROXIMITY OF THE PROVIDER, AND
23 THE NATURE OF THE PROGRAMS, AND TAILOR REFERRALS TO THOSE
24 CONSIDERATIONS AND ANY OTHER FACTOR RELEVANT TO THE TREATMENT
25 NEEDS OF THE OFFENDER, CAPABILITY OF THE PROVIDER, AND SAFETY OF
26 THE COMMUNITY. FOR AN OFFENDER WHO IS A PERSON WITH AN
27 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DESCRIBED IN
28 SECTION 25.5-10-202, THE SUPERVISING AGENCY SHALL REFER THAT
29 OFFENDER TO A PROVIDER APPROVED BY THE SEX OFFENDER
30 MANAGEMENT BOARD TO WORK WITH THAT POPULATION. FOR OFFENDERS
31 WHO PREFER TO DO TREATMENT IN A LANGUAGE OTHER THAN ENGLISH,
32 REFERRALS MUST BE OFFERED, WHEN POSSIBLE, TO PROVIDERS WHO ARE
33 FLUENT IN THE TARGET LANGUAGE."

34 Page 3, line 13, before "agency" insert "OR".

35 Page 3, line 15, strike "court." and substitute "court, EXCEPT THE
36 OFFENDER MAY CHANGE THE TREATMENT PROVIDER OR AGENCY ONCE
37 WITHIN NINETY DAYS OF THE COURT IMPOSING SENTENCE OR THE
38 OFFENDER'S RELEASE ON PAROLE.

1 (3) THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION DO
2 NOT APPLY TO THE DIVISION OF YOUTH SERVICES BASED ON THE NATURE
3 OF THE PROGRAM, THE COMPLEX NEEDS OF THE JUVENILES SERVED, AND
4 THE PLACEMENTS AND APPROVED TREATMENT PROVIDERS AVAILABLE TO
5 WORK WITH JUVENILES FROM THE DIVISION OF YOUTH SERVICES. THE
6 DIVISION OF YOUTH SERVICES SHALL ASSIGN JUVENILES WHO HAVE
7 COMMITTED A SEXUAL OFFENSE TO A TREATMENT PROVIDER BASED ON
8 THE INDIVIDUAL RISKS AND NEEDS OF THE JUVENILE AND HAVE
9 PROCEDURES IN PLACE TO ALLOW FOR A JUVENILE OR FAMILY TO REQUEST
10 A CHANGE IN TREATMENT PROVIDERS BASED ON RESPONSIVITY FACTORS.
11 THE MULTIDISCIPLINARY TEAM FOR THE JUVENILE SHALL REVIEW ALL
12 REQUESTS FOR CHANGES IN TREATMENT PROVIDERS AND APPROVE
13 REQUESTS IF THE MULTIDISCIPLINARY TEAM DETERMINES THE JUVENILE'S
14 RISKS, NEEDS, AND RESPONSIVITY FACTORS CAN BE BETTER SERVED BY AN
15 ALTERNATE TREATMENT PROVIDER."

16 Page 3, line 17, before "(8)" insert "(1.5) and".

17 Page 3, line 20, strike "**created.** (2) (a) The board shall" and substitute
18 "**created - repeal.** (1.5) NOTWITHSTANDING THE PROVISIONS OF
19 SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT OF CORRECTIONS MAY
20 EMPLOY OR CONTRACT WITH AN INDIVIDUAL OR ENTITY TO PROVIDE
21 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH
22 SERVICES PURSUANT TO THIS ARTICLE 11.7 IF THE DIRECTOR OF THE
23 PROGRAM IS AN APPROVED PROVIDER AND THE DEPARTMENT OPERATES A
24 SEX OFFENDER TREATMENT AND MONITORING PROGRAM THAT CONFORMS
25 WITH THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO
26 SECTION 16-11.7-103 AND THE EMPLOYEES AND CONTRACTORS ARE
27 TRAINED TO COMPLY WITH THE STANDARDS OF THE CONFORMING
28 PROGRAM.

29 (a) ANY INDIVIDUAL PROVIDING SEX-OFFENDER-SPECIFIC
30 EVALUATION OR TREATMENT MUST HAVE A BACCALAUREATE DEGREE OR
31 ABOVE IN A BEHAVIORAL SCIENCE WITH TRAINING OR PROFESSIONAL
32 EXPERIENCE IN COUNSELING OR THERAPY; MUST HOLD A PROFESSIONAL
33 MENTAL HEALTH LICENSE OR BE APPROVED BY THE DEPARTMENT OF
34 REGULATORY AGENCIES AS AN UNLICENSED PSYCHOTHERAPIST, CERTIFIED
35 ADDICTION COUNSELOR, LICENSED PROFESSIONAL COUNSELOR
36 CANDIDATE, LICENSED MARRIAGE AND FAMILY THERAPIST CANDIDATE, OR
37 PSYCHOLOGIST CANDIDATE; OR CLINICAL SOCIAL WORKER.

38 (b) ANY POLYGRAPH EXAMINER MUST HAVE GRADUATED FROM AN
39 ACCREDITED AMERICAN POLYGRAPH ASSOCIATION SCHOOL AND HAVE A
40 BACCALAUREATE DEGREE FROM A FOUR-YEAR INSTITUTION OF HIGHER
41 EDUCATION. THE DEPARTMENT OF CORRECTIONS SHALL COMPLETE

1 COMPLIANCE MONITORING OF CONTRACTED PROVIDERS AND POLYGRAPH
2 EXAMINERS WHO ARE NOT APPROVED BY THE BOARD PURSUANT TO
3 SUBSECTION (1) OF THIS SECTION ON AN ANNUAL BASIS.

4 (c) IN THE EVENT THAT A PROVIDER WHO CONTRACTED WITH THE
5 DEPARTMENT OF CORRECTIONS IS FOUND TO HAVE VIOLATED THE
6 GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SECTION
7 16-11.7-103, THE DEPARTMENT OF CORRECTIONS SHALL TERMINATE THE
8 CONTRACT WITH THE PROVIDER.

9 (d) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,
10 2028. PRIOR TO REPEAL, THIS SUBSECTION (1.5) IS SCHEDULED FOR REVIEW
11 IN ACCORDANCE WITH SECTION 16-11.7-103 (6).

12 (2) (a) The board shall".

13 Page 5, after line 3, insert:

14 "SECTION 7. In Colorado Revised Statutes, 18-1.3-101, **amend**
15 (6) as follows:

16 **18-1.3-101. Pretrial diversion - appropriation - repeal.** (6) In
17 a jurisdiction that receives state moneys for the creation or operation of
18 diversion programs pursuant to this section, an individual accused of a
19 sex offense as defined in section 18-1.3-1003 (5) is not eligible for
20 pretrial diversion unless charges have been filed and, after the individual
21 has had an opportunity to consult with counsel, the individual has
22 completed a sex-offense-specific evaluation, which includes the use of a
23 sex-offense-specific risk assessment instrument, conducted by an
24 evaluator approved by the sex offender management board as required by
25 section 16-11.7-103 (4). ~~C.R.S.~~ The district attorney may agree to place
26 the individual in the diversion program established by the district attorney
27 pursuant to this section if he or she finds that, based on the results of that
28 evaluation and the other factors in subsection (3) of this section, the
29 individual is appropriate for the program. Notwithstanding that a
30 successfully completed diversion agreement does not constitute a history
31 of sex offenses for purposes of sections 16-11.7-102 (2)(a)(II) and
32 16-22-103 (2)(d), ~~C.R.S.~~, the information constituting the crimes charged
33 and facts alleged shall be available for use by a court, district attorney,
34 any law enforcement agency, or agency of the state judicial department,
35 if otherwise permitted by law, in any subsequent criminal investigation,
36 prosecution, risk or needs assessment evaluation, sentencing hearing, or
37 during a probation or parole supervision period.

38 **SECTION 8.** In Colorado Revised Statutes, 17-22.5-404, **amend**
39 (6)(b) as follows:

40 **17-22.5-404. Parole guidelines - definition.** (6) (b) The state
41 board of parole shall also determine whether a decision granting,

1 revoking, or denying parole conformed with or departed from the
2 administrative guidelines created pursuant to ~~section 17-22.5-107~~
3 SECTIONS 17-22.5-107 AND 16-11.7-103 (4)(m) and, if the decision was
4 a departure from the guidelines, the reason for the departure. The data
5 collected pursuant to this ~~paragraph (b)~~ SUBSECTION (6) are subject to the
6 same victim protections described in ~~paragraph (a) of this subsection (6)~~
7 SUBSECTION (4)(a) OF THIS SECTION."

8 Renumber succeeding sections accordingly.

9 Page 5, line 5, strike "(31)(a)(VIII)" and substitute "(29)(a)(XVII)".

10 Page 5, strike lines 12 through 15 and substitute:

11 "(29)(a) The following agencies, functions, or both, are scheduled
12 for repeal on September 1, 2028:

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

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