

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0318.01 Jane Ritter x4342

**SENATE BILL 23-164**

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**SENATE SPONSORSHIP**

**Gonzales and Gardner,**

**HOUSE SPONSORSHIP**

**Bacon and Weissman,**

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**Senate Committees**

Judiciary  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE CONTINUATION OF THE SEX OFFENDER**  
102            **MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH,**  
103            **IMPLEMENTING THE RECOMMENDATIONS CONTAINED IN THE**  
104            **2022 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY**  
105            **AGENCIES.**

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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/>.)*

**Sunset Process - Senate Judiciary Committee.** The bill implements the recommendations of the department of regulatory

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

agencies' sunset review and report on the sex offender management board (board) by:

- Continuing the board for 7 years;
- Clarifying that supervising officers are required to follow guidelines and standards and directing agencies that employ supervising officers to collaborate with the board to hold accountable those who fail to do so;
- Repealing the limitation on the number of treatment providers given to offenders when choosing a provider;
- Requiring standards compliance reviews on at least 10% of providers every 2 years;
- Updating language concerning fingerprints to reflect current practice; and
- Relieving the department of regulatory agencies of its responsibility to publish a list, together with the board, of approved treatment providers.

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

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:**

1           (1) "Adult sex offender" means a person who has been convicted,  
2           as described in subparagraphs (I) to (III) of paragraph (a) of subsection  
3           (2) SUBSECTIONS (2)(a)(I) TO (2)(a)(III) of this section, of a sex offense,  
4           BUT DOES NOT INCLUDE A PERSON WHO MEETS THE DEFINITION OF A  
5           "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE", AS DEFINED IN  
6           SUBSECTION (1.5) OF THIS SECTION, UNLESS THE PERSON HAS ALSO BEEN  
7           CONVICTED OF A SEX OFFENSE COMMITTED ON OR AFTER THE DAY THE  
8           PERSON ATTAINED EIGHTEEN YEARS OF AGE OR WHO IS SENTENCED FOR A  
9           SEX OFFENSE ON OR AFTER THE PERSON ATTAINED TWENTY-ONE YEARS OF  
10           AGE.

11           (1.5) "Juvenile who has committed a sexual offense" means a  
12           juvenile who WAS LESS THAN EIGHTEEN YEARS OF AGE AT THE TIME OF  
13           THE SEXUAL OFFENSE AND WHO has been adjudicated as a juvenile or who  
14           receives a deferred adjudication OR WHO IS SENTENCED PRIOR TO  
15           ATTAINING TWENTY-ONE YEARS OF AGE AFTER BEING CRIMINALLY  
16           CONVICTED IN THE DISTRICT COURT PURSUANT TO SECTION 19-2-517 OR  
17           19-2-518 on or after July 1, 2002, OR SECTION 19-2.5-801 OR 19-2.5-802,  
18           ON OR AFTER OCTOBER 1, 2021, for an offense that would constitute a sex  
19           offense, as defined in subsection (3) of this section, if committed as an  
20           adult, or a juvenile who has committed any offense, the underlying factual  
21           basis of which involves a sex offense.

22           (2) (a) "Sex offender" means any person who is:  
23           (I) Convicted in the state of Colorado, on or after January 1, 1994,  
24           of any sex offense as defined in subsection (3) of this section; or  
25           (II) Convicted in the state of Colorado on or after January 1, 1994,  
26           of any criminal offense, if such person has previously been convicted of  
27           a sex offense as described in subsection (3) of this section in the state of

1 Colorado, or if such person has previously been convicted in any other  
2 jurisdiction of any offense that would constitute a sex offense as defined  
3 in subsection (3) of this section, or if such person has a history of any sex  
4 offenses as defined in subsection (3) of this section; or

5 (HH) (II) Convicted in the state of Colorado on or after July 1,  
6 2000, of any criminal offense, the underlying factual basis of which  
7 involves a sex offense; or

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

9 (IV) A PERSON WHO:

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

12 AND

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

16 (C) IS CONVICTED IN THE STATE OF COLORADO ON OR AFTER  
17 JANUARY 1, 1994, OF ANY CRIMINAL OFFENSE, AND IF SUCH PERSON HAS  
18 PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE IN COLORADO OR ANY  
19 OTHER JURISDICTION OR HAS A HISTORY OF ANY SEX OFFENSES, AS SEX  
20 OFFENSE IS DESCRIBED IN SUBSECTION (3) OF THIS SECTION AND, IF THE  
21 PERSON HAS PREVIOUSLY BEEN CONVICTED OF A SEX OFFENSE AS DEFINED  
22 IN SUBSECTION (3) OF THIS SECTION, IN THE STATE OF COLORADO; OR IF  
23 THE PERSON HAS PREVIOUSLY BEEN CONVICTED IN ANY OTHER  
24 JURISDICTION OF ANY OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE  
25 AS DEFINED IN SUBSECTION (3) OF THIS SECTION; OR IF THE PERSON HAS A  
26 HISTORY OF ANY SEX OFFENSES AS DEFINED IN SUBSECTION (3) OF THIS  
27 SECTION.

1           **SECTION 3.** In Colorado Revised Statutes, 16-11.7-103, **amend**  
2 (4)(b)(I), (4)(j)(I), (4)(m), and (6); and **add** (4)(h.5) as follows:

3           **16-11.7-103. Sex offender management board - creation -**  
4 **duties - repeal. (4) Duties of the board.** The board shall carry out the  
5 following duties:

6           **(b) Guidelines and standards for treatment of adult offenders.**

7 (I) The board shall develop, implement, and revise, as appropriate,  
8 guidelines and standards to treat adult sex offenders, including adult sex  
9 offenders with intellectual and developmental disabilities, incorporating  
10 in the guidelines and standards the concepts of the risk-need-responsivity  
11 or another evidence-based correctional model, which guidelines and  
12 standards can be used in the treatment of offenders who are placed on  
13 probation, incarcerated with the department of corrections, placed on  
14 parole, or placed in community corrections. Programs implemented  
15 pursuant to the guidelines and standards developed pursuant to this  
16 subsection (4)(b) must be as flexible as possible so that the programs may  
17 be accessed by each adult sex offender to prevent the offender from  
18 harming victims and potential victims. Programs must include a  
19 continuing monitoring process and a continuum of treatment options  
20 available to an adult sex offender as ~~he or she~~ THE OFFENDER proceeds  
21 through the criminal justice system. Treatment options must be  
22 determined by a current risk assessment and evaluation and may include,  
23 but need not be limited to, group counseling, individual counseling,  
24 family counseling, outpatient treatment, inpatient treatment, shared living  
25 arrangements, or treatment in a therapeutic community. Programs  
26 implemented pursuant to the guidelines and standards developed pursuant  
27 to this subsection (4)(b) must, to the extent possible, be accessible to all

1 adult sex offenders in the criminal justice system, including those  
2 offenders with behavioral, mental health, and co-occurring disorders AND  
3 MUST ENSURE, TO THE EXTENT POSSIBLE, THAT TREATMENT IS RESPONSIVE  
4 TO THE AGE AND DEVELOPMENTAL STATUS OF THE OFFENDER AT THE TIME  
5 OF TREATMENT, AS WELL AS THE LINGUISTIC, CULTURAL, RELIGIOUS, AND  
6 RACIAL CHARACTERISTICS; SEXUAL ORIENTATION, AS DEFINED IN SECTION  
7 24-34-301; GENDER IDENTITY, AS DEFINED IN SECTION 24-34-301; AND  
8 GENDER EXPRESSION, AS DEFINED IN SECTION 24-34-301, OF THE  
9 OFFENDERS SERVED. The procedures for evaluation, identification,  
10 treatment, and monitoring developed pursuant to this subsection (4) must  
11 be implemented only to the extent that money is available in the sex  
12 offender surcharge fund created in section 18-21-103 (3).

13 (h.5) **Compliance reviews of treatment providers.** BEGINNING  
14 SEPTEMBER 1, 2024, AND EVERY TWO YEARS THEREAFTER, THE BOARD  
15 SHALL PERFORM A COMPLIANCE REVIEW OF AT LEAST TEN PERCENT OF  
16 TREATMENT PROVIDERS.

17 (j)(I) **Guidelines and standards for treatment of juveniles who**  
18 **have committed a sexual offense.** The board shall develop, implement,  
19 and revise, as appropriate, guidelines and standards to treat juveniles who  
20 have committed A sexual offenses OFFENSE, including juveniles with  
21 intellectual and developmental disabilities, incorporating in the guidelines  
22 and standards the concepts of the risk-need-responsivity or another  
23 evidence-based correctional model, which guidelines and standards may  
24 be used for ~~juvenile offenders~~ JUVENILES who are placed on probation,  
25 committed to the department of human services, SENTENCED TO  
26 COMMUNITY CORRECTIONS, SENTENCED TO THE DEPARTMENT OF  
27 CORRECTIONS, placed on parole, or placed in out-of-home placement.

1 Programs implemented pursuant to the guidelines and standards  
2 developed pursuant to this subsection (4)(j) must be as flexible as  
3 possible so that the programs may be accessed by each juvenile offender  
4 to prevent him or her THE JUVENILE from harming victims and potential  
5 victims. Programs must provide a continuing monitoring process and a  
6 continuum of treatment options available to AS a juvenile offender as he  
7 or she proceeds through the juvenile OR CRIMINAL justice system.  
8 Treatment options may include, but need not be limited to, group  
9 counseling, individual counseling, family counseling, outpatient  
10 treatment, inpatient treatment, shared living arrangements, and treatment  
11 in a therapeutic community. Programs implemented pursuant to the  
12 guidelines and standards developed pursuant to this subsection (4)(j) must  
13 be, to the extent possible, accessible to all juveniles who have committed  
14 sexual offenses and who are in the juvenile OR CRIMINAL justice system,  
15 including juveniles with behavioral, mental health, or co-occurring  
16 disorders AND MUST ENSURE, TO THE EXTENT POSSIBLE, THAT TREATMENT  
17 IS RESPONSIVE TO THE AGE AND DEVELOPMENTAL STATUS OF THE  
18 JUVENILE AT THE TIME OF TREATMENT, AS WELL AS THE LINGUISTIC,  
19 CULTURAL, RELIGIOUS, AND RACIAL CHARACTERISTICS; SEXUAL  
20 ORIENTATION, AS DEFINED IN SECTION 24-34-301; GENDER IDENTITY, AS  
21 DEFINED IN SECTION 24-34-301; AND GENDER EXPRESSION, AS DEFINED IN  
22 SECTION 24-34-301, OF THE JUVENILES SERVED.

23 (m) Release guideline instrument for sex offenders with  
24 determinate sentences. (I) ON OR BEFORE DECEMBER 1, 2023, AND AS  
25 INDICATED THEREAFTER, THE BOARD, IN COLLABORATION WITH THE STATE  
26 BOARD OF PAROLE, SHALL REVISE THE SPECIFIC SEX OFFENDER RELEASE  
27 GUIDELINE INSTRUMENT, AS REQUIRED BY SECTION 17-22.5-404 (4)(c)(II),

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

15 (II) IN DEVELOPING THE REVISED RELEASE GUIDELINE  
16 INSTRUMENT, THE BOARD SHALL CONSIDER CURRENT RESEARCH,  
17 INFORMATION, AND DATA REGARDING:

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

22 (B) THE MOST EFFECTIVE USE OF LIMITED TREATMENT RESOURCES  
23 WITHIN THE DEPARTMENT OF CORRECTIONS;

24 (C) THE AVAILABILITY OR LACK OF AVAILABILITY OF TREATMENT  
25 DURING INCARCERATION FOR OFFENDERS WITH DETERMINATE SENTENCES  
26 WHO MIGHT OTHERWISE BE ELIGIBLE FOR RELEASE PURSUANT TO SECTION  
27 17-22.5-404 (4)(a); AND



1           (D) THE EFFICACY OF TREATMENT AS A CONDITION OF COMMUNITY  
2           SUPERVISION ON PAROLE.

3           (6) **Repeal.** This section is repealed, effective ~~September 1, 2023~~  
4           SEPTEMBER 1, 2028. Before the repeal, this section is scheduled for  
5           review in accordance with section 24-34-104.

6           **SECTION 4.** In Colorado Revised Statutes, 16-11.7-104, **amend**  
7           (1) as follows:

8           **16-11.7-104. Sex offenders - evaluation and identification**  
9           **required.** (1) WHEN REQUIRED AS PART OF THE PRESENTENCE OR  
10           PROBATION INVESTIGATION PURSUANT TO SECTIONS 16-11-102 (1)(b)(I)  
11           AND 16-11.7-102 (2)(a)(I) TO (2)(a)(IV), on and after January 1, 1994,  
12           each convicted adult sex offender and juvenile who has committed a  
13           sexual offense who is to be considered for probation shall be IS required  
14           as a part of the presentence or probation investigation required pursuant  
15           to section 16-11-102, to submit to an evaluation for treatment, an  
16           evaluation for risk, procedures required for monitoring of behavior to  
17           protect victims and potential victims, and an identification developed  
18           pursuant to section 16-11.7-103 (4).

19           **SECTION 5.** In Colorado Revised Statutes, 16-11.7-105, **amend**  
20           (2); and add (1.5), (1.6), and (3) as follows:

21           **16-11.7-105. Sentencing of sex offenders - treatment based**  
22           **upon evaluation and identification required - subcommittee created.**  
23           (1.5) (a) THE DEPARTMENT OF CORRECTIONS SHALL IDENTIFY ALL  
24           INMATES WHO ARE CLASSIFIED TO UNDERGO TREATMENT, ARE ELIGIBLE TO  
25           RECEIVE TREATMENT PURSUANT TO THE DEPARTMENT OF CORRECTIONS'  
26           POLICY, AND HAVE NOT BEEN PROVIDED WITH THE OPPORTUNITY TO  
27           UNDERGO TREATMENT WHILE INCARCERATED. FOR EACH INMATE, THE

1 DEPARTMENT OF CORRECTIONS SHALL PROVIDE THE FOLLOWING DATA TO  
2 THE BOARD ON OR BEFORE JULY 31, 2023:

3 (I) THE INMATE'S DEPARTMENT OF CORRECTIONS IDENTIFICATION  
4 NUMBER;

5 (II) THE DATE OF THE INMATE'S SENTENCE, THE CRIME OF  
6 CONVICTION, AND LENGTH OF THE SENTENCE, INCLUDING LENGTH OF  
7 PAROLE;

8 (III) WHETHER THE SENTENCE TO THE DEPARTMENT OF  
9 CORRECTIONS WAS A RESULT OF A PROBATION OR COMMUNITY PAROLE  
10 REVOCAION;

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

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

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

19 (b) THE DEPARTMENT OF CORRECTIONS SHALL FURTHER IDENTIFY,  
20 IN WRITING:

21 (I) IN THE AGGREGATE, VALIDATED STATIC RISK ASSESSMENT  
22 SCORES OF THE INMATES DESCRIBED IN THIS SECTION, IF AVAILABLE,  
23 SEPARATELY IDENTIFYING THOSE SERVING INDETERMINATE AND  
24 DETERMINATE SENTENCES;

25 (II) THE TOTAL TREATMENT CAPACITY IN THE DEPARTMENT OF  
26 CORRECTIONS AND, FOR EACH FACILITY PROVIDING SEX OFFENDER  
27 TREATMENT AND MONITORING PROGRAM TREATMENT SERVICES, THE

1 TREATMENT PROGRAM CAPACITY AND THE PHASES OR TRACKS OF  
2 TREATMENT OFFERED;

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

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

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

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

21 (c) THE DEPARTMENT OF CORRECTIONS SHALL PROVIDE THIS DATA  
22 TO THE BOARD PRIOR TO JULY 31, 2023. THE BOARD SHALL FORM A  
23 SUBCOMMITTEE WITH REPRESENTATIVES FROM THE BOARD, COMMUNITY  
24 SEX OFFENDER TREATMENT PROVIDERS, THE DEPARTMENT OF  
25 CORRECTIONS, THE DIVISION OF ADULT PAROLE IN THE DEPARTMENT OF  
26 CORRECTIONS, AND THE STATE PAROLE BOARD CREATED PURSUANT TO  
27 SECTION 17-2-201. THE PURPOSE OF THE SUBCOMMITTEE IS TO DEVELOP

1 SOLUTIONS TO ADDRESS TREATMENT RESOURCES FOR SEX OFFENDERS WHO  
2 ARE INCARCERATED OR IN THE CUSTODY OF THE DEPARTMENT OF  
3 CORRECTIONS, INCLUDING A LEGAL AND EVIDENCE-BASED ANALYSIS OF  
4 INMATES WHO ARE REQUIRED TO PROGRESS IN TREATMENT IN THE  
5 DEPARTMENT OF CORRECTIONS PRIOR TO ANY RELEASE PURSUANT TO  
6 SECTION 18-1.3-1006 AND THOSE WHO ARE CLASSIFIED BY THE  
7 DEPARTMENT OF CORRECTIONS AS AN INMATE WHO IS REQUIRED TO  
8 PARTICIPATE IN TREATMENT. THE SUBCOMMITTEE SHALL:

9 (I) ANALYZE THE DATA PROVIDED BY THE DEPARTMENT OF  
10 CORRECTIONS AND PREPARE A COMPREHENSIVE REPORT ON THE CURRENT  
11 PRISON POPULATION TO IDENTIFY INMATES WHO ARE ELIGIBLE TO RECEIVE  
12 TREATMENT, WITH SPECIAL PRIORITY TOWARDS INMATES WHO ARE PAST  
13 PAROLE ELIGIBILITY DATE, HAVE NOT BEEN PROVIDED A TREATMENT  
14 OPPORTUNITY, AND REQUIRE TREATMENT TO MEET COMMUNITY  
15 CORRECTIONS OR PAROLE ELIGIBILITY REQUIREMENTS PURSUANT TO  
16 SECTION 18-1.3-301 (1)(f), 18-1.3-1006, AND 17-22.5-404 (4)(c)(II);

17 (II) IDENTIFY ALL BARRIERS THE DEPARTMENT OF CORRECTIONS  
18 FACES IN PROVIDING TIMELY ACCESS TO TREATMENT TO INMATES WHO  
19 REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS  
20 PURSUANT TO SECTIONS 18-1.3-1006 AND 17-22.5-404 (4)(c)(II) AND  
21 MAKE RECOMMENDATIONS FOR WORKABLE SOLUTIONS TO INCREASE  
22 TREATMENT ACCESS IN THE DEPARTMENT OF CORRECTIONS, INCLUDING  
23 EVIDENCE-BASED, VALIDATED PROJECTIONS DEVELOPED IN CONJUNCTION  
24 WITH THE DIVISION OF CRIMINAL JUSTICE EXPERTS IN PRISON POPULATION  
25 PROJECTIONS, FOR THE DECREASE IN BACKLOG THAT WOULD OCCUR WITH  
26 THE IMPLEMENTATION OF ANY SOLUTIONS;

27 (III) DETERMINE WHICH, IF ANY, STANDARDS ARE BARRIERS TO

1 PROVIDING TIMELY ACCESS TO TREATMENT AND MAKE  
2 RECOMMENDATIONS CONCERNING CHANGES OR EXCEPTIONS TO THE  
3 STANDARDS FOR SEX OFFENDERS INCARCERATED IN THE DEPARTMENT OF  
4 CORRECTIONS;

5 (IV) REVIEW AND CONSIDER REVISIONS TO THE DEPARTMENT OF  
6 CORRECTIONS POLICIES AND ADMINISTRATIVE REGULATIONS TO PREVENT  
7 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES  
8 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS;

9 (V) REVIEW THE CRITERIA ESTABLISHED PURSUANT TO SECTION  
10 18-1.3-1009 AND MAKE REVISIONS TO POLICIES OF THE DEPARTMENT OF  
11 CORRECTIONS AND ADMINISTRATIVE REGULATIONS TO PREVENT  
12 UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE TO INMATES  
13 WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY REQUIREMENTS  
14 PURSUANT TO SECTION 18-1.3-1006;

15 (VI) REVIEW PAROLE GUIDELINES FOR THOSE INMATES CLASSIFIED  
16 AS SEX OFFENDERS WITH DETERMINATE SENTENCES ESTABLISHED  
17 PURSUANT TO SECTION 17-22.5-404 AND MAKE REVISIONS AS NECESSARY  
18 TO PREVENT UNNECESSARY BACKLOG IN MAKING TREATMENT ACCESSIBLE  
19 TO INMATES WHO REQUIRE TREATMENT TO MEET PAROLE ELIGIBILITY  
20 REQUIREMENTS;

21 (VII) DETERMINE WHETHER ADDITIONAL TREATMENT PROVIDERS  
22 WILL CONTRACT WITH THE DEPARTMENT OF CORRECTIONS TO PROVIDE  
23 EVALUATION OR TREATMENT SERVICES TO INCARCERATED INDIVIDUALS  
24 AND MAKE WORKABLE RECOMMENDATIONS CONCERNING HOW TO  
25 IMMEDIATELY INCREASE INMATE ACCESS TO THOSE APPROVED PROVIDERS;

26 (VIII) DETERMINE WHETHER NECESSARY INCREASED FUNDING OR  
27 ANY OTHER RESOURCES COULD MAKE ACCESS TO TELEHEALTH TREATMENT

1 VIABLE FOR INMATES AND THE AMOUNT OF INCREASED FUNDING OR  
2 RESOURCES NECESSARY TO ACCOMPLISH THIS GOAL; AND

3 (IX) IN CONSIDERATION OF ANY EXISTING TREATMENT BACKLOG  
4 AND OF FINITE TREATMENT RESOURCES, MAKE RECOMMENDATIONS FOR  
5 PROCURING OR MAKING AVAILABLE SUFFICIENT TREATMENT RESOURCES  
6 WITHOUT NEGATIVELY IMPACTING PUBLIC SAFETY AND PROTECTION OF  
7 VICTIMS.

8 (X) THE SUBCOMMITTEE CREATED IN SUBSECTION (1.5)(c) OF THIS  
9 SECTION SHALL PRESENT ITS WRITTEN FINDINGS IN A REPORT AND  
10 PROPOSAL TO THE JUDICIARY COMMITTEES OF THE HOUSE OF  
11 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON  
12 OR BEFORE FEBRUARY 1, 2024. THE DEPARTMENT OF CORRECTIONS AND  
13 THE PAROLE BOARD SHALL COMMENT ON THE REPORT'S FINDINGS AND  
14 RECOMMENDATIONS ON OR BEFORE MARCH 1, 2024.

15 (2) For offenders who begin community supervision on or after  
16 August 10, 2016 THE EFFECTIVE DATE OF THIS SUBSECTION (2), AS  
17 AMENDED, the supervising agency of each adult sex offender and juvenile  
18 who has committed a sexual offense shall provide the offender with a  
19 choice of two appropriate treatment provider agencies staffed by  
20 approved providers unless the supervising agency documents in the file  
21 that, based upon the nature of the program offered, the needs of the  
22 offender, or the proximity of the appropriate treatment provider agency,  
23 fewer than two such agencies can meet the specific needs of the offender,  
24 ensure the safety of the public, and provide the supervising agency with  
25 reasonable access to the treatment provider agency and the offender  
26 during the course of treatment. ACCESS TO A COMPLETE LIST OF  
27 TREATMENT PROVIDERS WHO ARE APPROVED PURSUANT TO SECTION

1 16-11.7-106 AND WHO HAVE THE EXPERTISE TO WORK WITH THE SPECIFIC  
2 RISKS AND NEEDS OF THAT PARTICULAR OFFENDER. THE SUPERVISING  
3 AGENCY SHALL ALSO MAKE SPECIFIC RECOMMENDATIONS TO THE  
4 OFFENDER. WHEN MAKING A LIST OF REFERRALS, THE SUPERVISING  
5 AGENCY SHALL CONSIDER THE INDIVIDUAL RISKS AND TREATMENT NEEDS  
6 OF THE PARTICULAR OFFENDER, ABILITY OF THE TREATMENT PROVIDER TO  
7 ACCEPT NEW CLIENTS, GEOGRAPHIC PROXIMITY OF THE PROVIDER, AND  
8 THE NATURE OF THE PROGRAMS, AND TAILOR REFERRALS TO THOSE  
9 CONSIDERATIONS AND ANY OTHER FACTOR RELEVANT TO THE TREATMENT  
10 NEEDS OF THE OFFENDER, CAPABILITY OF THE PROVIDER, AND SAFETY OF  
11 THE COMMUNITY. FOR AN OFFENDER WHO IS A PERSON WITH AN  
12 INTELLECTUAL AND DEVELOPMENTAL DISABILITY, AS DESCRIBED IN  
13 SECTION 25.5-10-202, THE SUPERVISING AGENCY SHALL REFER THAT  
14 OFFENDER TO A PROVIDER APPROVED BY THE SEX OFFENDER  
15 MANAGEMENT BOARD TO WORK WITH THAT POPULATION. FOR OFFENDERS  
16 WHO PREFER TO DO TREATMENT IN A LANGUAGE OTHER THAN ENGLISH,  
17 REFERRALS MUST BE OFFERED, WHEN POSSIBLE, TO PROVIDERS WHO ARE  
18 FLUENT IN THE TARGET LANGUAGE. Once selected, the treatment provider  
19 OR agency may not be changed by the offender without the approval of  
20 the community supervision team, the multidisciplinary team, or the court,  
21 EXCEPT THE OFFENDER MAY CHANGE THE TREATMENT PROVIDER OR  
22 AGENCY ONCE WITHIN NINETY DAYS OF THE COURT IMPOSING SENTENCE  
23 OR THE OFFENDER'S RELEASE ON PAROLE.

24 (3) THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION DO  
25 NOT APPLY TO THE DIVISION OF YOUTH SERVICES BASED ON THE NATURE  
26 OF THE PROGRAM, THE COMPLEX NEEDS OF THE JUVENILES SERVED, AND  
27 THE PLACEMENTS AND APPROVED TREATMENT PROVIDERS AVAILABLE TO

1 WORK WITH JUVENILES FROM THE DIVISION OF YOUTH SERVICES. THE  
2 DIVISION OF YOUTH SERVICES SHALL ASSIGN JUVENILES WHO HAVE  
3 COMMITTED A SEXUAL OFFENSE TO A TREATMENT PROVIDER BASED ON  
4 THE INDIVIDUAL RISKS AND NEEDS OF THE JUVENILE AND HAVE  
5 PROCEDURES IN PLACE TO ALLOW FOR A JUVENILE OR FAMILY TO REQUEST  
6 A CHANGE IN TREATMENT PROVIDERS BASED ON RESPONSIVITY FACTORS.  
7 THE MULTIDISCIPLINARY TEAM FOR THE JUVENILE SHALL REVIEW ALL  
8 REQUESTS FOR CHANGES IN TREATMENT PROVIDERS AND APPROVE  
9 REQUESTS IF THE MULTIDISCIPLINARY TEAM DETERMINES THE JUVENILE'S  
10 RISKS, NEEDS, AND RESPONSIVITY FACTORS CAN BE BETTER SERVED BY AN  
11 ALTERNATE TREATMENT PROVIDER.

12           **SECTION 6.** In Colorado Revised Statutes, 16-11.7-106, **amend**  
13 (2)(a) introductory portion, (2)(a)(I), and (2)(b); and **add** (1.5) and (8) as  
14 follows:

15           **16-11.7-106. Sex offender evaluation, treatment, and**  
16 **polygraph services - contracts with providers - placement on**  
17 **provider list - grievances - fund created - repeal.**  
18 (1.5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS  
19 SECTION, THE DEPARTMENT OF CORRECTIONS MAY EMPLOY OR CONTRACT  
20 WITH AN INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC  
21 EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS  
22 ARTICLE 11.7 IF THE DIRECTOR OF THE PROGRAM IS AN APPROVED  
23 PROVIDER AND THE DEPARTMENT OPERATES A SEX OFFENDER TREATMENT  
24 AND MONITORING PROGRAM THAT CONFORMS WITH THE GUIDELINES AND  
25 STANDARDS DEVELOPED PURSUANT TO SECTION 16-11.7-103 AND THE  
26 EMPLOYEES AND CONTRACTORS ARE TRAINED TO COMPLY WITH THE  
27 STANDARDS OF THE CONFORMING PROGRAM.



1           (a) ANY INDIVIDUAL PROVIDING SEX-OFFENDER-SPECIFIC  
2           EVALUATION OR TREATMENT MUST HAVE A BACCALAUREATE DEGREE OR  
3           ABOVE IN A BEHAVIORAL SCIENCE WITH TRAINING OR PROFESSIONAL  
4           EXPERIENCE IN COUNSELING OR THERAPY; MUST HOLD A PROFESSIONAL  
5           MENTAL HEALTH LICENSE OR BE APPROVED BY THE DEPARTMENT OF  
6           REGULATORY AGENCIES AS AN UNLICENSED PSYCHOTHERAPIST, CERTIFIED  
7           ADDICTION COUNSELOR, LICENSED PROFESSIONAL COUNSELOR  
8           CANDIDATE, LICENSED MARRIAGE AND FAMILY THERAPIST CANDIDATE, OR  
9           PSYCHOLOGIST CANDIDATE; OR CLINICAL SOCIAL WORKER.

10           (b) ANY POLYGRAPH EXAMINER MUST HAVE GRADUATED FROM AN  
11           ACCREDITED AMERICAN POLYGRAPH ASSOCIATION SCHOOL AND HAVE A  
12           BACCALAUREATE DEGREE FROM A FOUR-YEAR INSTITUTION OF HIGHER  
13           EDUCATION. THE DEPARTMENT OF CORRECTIONS SHALL COMPLETE  
14           COMPLIANCE MONITORING OF CONTRACTED PROVIDERS AND POLYGRAPH  
15           EXAMINERS WHO ARE NOT APPROVED BY THE BOARD PURSUANT TO  
16           SUBSECTION (1) OF THIS SECTION ON AN ANNUAL BASIS.

17           (c) IN THE EVENT THAT A PROVIDER WHO CONTRACTED WITH THE  
18           DEPARTMENT OF CORRECTIONS IS FOUND TO HAVE VIOLATED THE  
19           GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SECTION  
20           16-11.7-103, THE DEPARTMENT OF CORRECTIONS SHALL TERMINATE THE  
21           CONTRACT WITH THE PROVIDER.

22           (d) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
23           2028. PRIOR TO REPEAL, THIS SUBSECTION (1.5) IS SCHEDULED FOR REVIEW  
24           IN ACCORDANCE WITH SECTION 16-11.7-103 (6).

25           (2) (a) The board shall develop an application and review process  
26 for treatment providers, evaluators, and polygraph examiners who provide  
27 services pursuant to this ~~article~~ ARTICLE 11.7 to adult sex offenders and

1 to juveniles who have committed sexual offenses. The application and  
2 review process ~~shall~~ MUST allow providers to demonstrate that they are  
3 in compliance with the standards adopted pursuant to this ~~article~~ ARTICLE  
4 11.7. The application and review process ~~shall consist~~ CONSISTS of the  
5 following three parts:

6 (I) The board shall develop separate application and review  
7 processes for standards that apply to the criminal justice component, such  
8 as criminal history record checks, for evaluators, individual treatment  
9 providers, and polygraph examiners. Applications for the criminal justice  
10 components, ~~including~~ EXCLUDING fingerprints, ~~shall~~ MUST be submitted  
11 to the board. The ~~board shall~~ DIVISION OF CRIMINAL JUSTICE IN THE  
12 DEPARTMENT OF PUBLIC SAFETY SHALL WORK WITH A THIRD-PARTY  
13 VENDOR TO TAKE AND forward ~~the~~ fingerprints to the Colorado bureau of  
14 investigation for use in conducting a state criminal history record check  
15 and for transmittal to the federal bureau of investigation for a national  
16 criminal history record check. The board may use information obtained  
17 from the state and national criminal history record checks to determine an  
18 applicant's eligibility for placement on the approved provider list. The  
19 board ~~shall be~~ IS responsible for the implementation of ~~the provisions of~~  
20 ~~this subparagraph (I)~~ THIS SUBSECTION (2)(a)(I).

21 (b) After the process developed pursuant to ~~paragraph (a) of this~~  
22 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION is established and  
23 providers have met all the criteria of the application and review process,  
24 the board may approve the provider. The board ~~and the department of~~  
25 ~~regulatory agencies~~ shall jointly publish, at least annually, a list of  
26 approved providers. The board shall forward the list to the office of the  
27 state court administrator, the department of public safety, the department

1 of human services, and the department of corrections. The board shall  
2 update and forward the list of approved providers as necessary.

3 (8) SUPERVISING OFFICERS SHALL FOLLOW THE GUIDELINES AND  
4 STANDARDS DEVELOPED PURSUANT TO THIS SECTION WHEN WORKING  
5 WITH SEX OFFENDERS. AGENCIES EMPLOYING SUPERVISING OFFICERS  
6 SHALL COLLABORATE WITH THE BOARD TO DEVELOP PROCEDURES TO HOLD  
7 ACCOUNTABLE A SUPERVISING OFFICER WHO FAILS TO FOLLOW THE  
8 GUIDELINES AND STANDARDS.

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

11 **18-1.3-101. Pretrial diversion - appropriation - repeal.( 6) In**  
12 **a jurisdiction that receives state moneys for the creation or operation of**  
13 **diversion programs pursuant to this section, an individual accused of a**  
14 **sex offense as defined in section 18-1.3-1003 (5) is not eligible for**  
15 **pretrial diversion unless charges have been filed and, after the individual**  
16 **has had an opportunity to consult with counsel, the individual has**  
17 **completed a sex-offense-specific evaluation, which includes the use of a**  
18 **sex-offense-specific risk assessment instrument, conducted by an**  
19 **evaluator approved by the sex offender management board as required by**  
20 **section 16-11.7-103 (4). C.R.S. The district attorney may agree to place**  
21 **the individual in the diversion program established by the district attorney**  
22 **pursuant to this section if he or she finds that, based on the results of that**  
23 **evaluation and the other factors in subsection (3) of this section, the**  
24 **individual is appropriate for the program. Notwithstanding that a**  
25 **successfully completed diversion agreement does not constitute a history**  
26 **of sex offenses for purposes of sections 16-11.7-102 (2)(a)(II) and**  
27 **16-22-103 (2)(d), C.R.S., the information constituting the crimes charged**

1 and facts alleged shall be available for use by a court, district attorney,  
2 any law enforcement agency, or agency of the state judicial department,  
3 if otherwise permitted by law, in any subsequent criminal investigation,  
4 prosecution, risk or needs assessment evaluation, sentencing hearing, or  
5 during a probation or parole supervision period.

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

8 **17-22.5-404. Parole guidelines - definition.** (6) (b) The state  
9 board of parole shall also determine whether a decision granting,  
10 revoking, or denying parole conformed with or departed from the  
11 administrative guidelines created pursuant to ~~section 17-22.5-107~~  
12 SECTIONS 17-22.5-107 AND 16-11.7-103 (4)(m) and, if the decision was  
13 a departure from the guidelines, the reason for the departure. The data  
14 collected pursuant to this ~~paragraph (b)~~ SUBSECTION (6) are subject to the  
15 same victim protections described in ~~paragraph (a) of this subsection (6)~~  
16 SUBSECTION (4)(a) OF THIS SECTION.

17 **SECTION 9.** In Colorado Revised Statutes, 24-34-104, **repeal**  
18 **(24)(a)(XIII); and add (29)(a)(XVII)** as follows:

19 **24-34-104. General assembly review of regulatory agencies**  
20 **and functions for repeal, continuation, or reestablishment - legislative**  
21 **declaration - repeal.** (24) (a) The following agencies, functions, or both,  
22 are scheduled for repeal on September 1, 2023:

23 ~~(XIII) The sex offender management board created in section~~  
24 ~~16-11.7-103.~~

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

27 (XVII) THE SEX OFFENDER MANAGEMENT BOARD CREATED IN

1     SECTION 16-11.7-103.

2             **SECTION 10. Act subject to petition - effective date.** This act  
3 takes effect at 12:01 a.m. on the day following the expiration of the  
4 ninety-day period after final adjournment of the general assembly; except  
5 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
6 of the state constitution against this act or an item, section, or part of this  
7 act within such period, then the act, item, section, or part will not take  
8 effect unless approved by the people at the general election to be held in  
9 November 2024 and, in such case, will take effect on the date of the  
10 official declaration of the vote thereon by the governor.