

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 11-0171.01 Brita Darling

HOUSE BILL 11-1138

HOUSE SPONSORSHIP

Gardner B., Barker, Casso, Waller

SENATE SPONSORSHIP

Morse, Bacon, Boyd, Jahn, King S.

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE SEX OFFENDER MANAGEMENT BOARD, AND MAKING**
102 **AN APPROPRIATION THEREFOR.**

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>.)

The bill extends the sex offender management board (board) for 10 years to September 1, 2020, and revises the board's duties.

Section 1: The bill amends the language of the legislative declaration for the board, as well as language in other sections in the statutory article that governs the board (article) to refer to juvenile

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.

offenders as "juveniles who have committed sexual offenses" rather than labeling juveniles as sex offenders.

Section 2: The bill adds the definitions "adult sex offender" and "juvenile who has committed a sexual offense" for purposes of the article.

Section 3: 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.

The bill recreates and reenacts, with amendments, the provisions relating to the board's creation and duties. With respect to the board's duties, the bill:

- ! Requires the board to prescribe a standardized procedure for the evaluation and identification of adult sex offenders based upon the knowledge that sexually offending behavior is repetitive and that there is no way to ensure that adult sex offenders with the propensity to commit sexual offenses will not reoffend;
- ! Requires the board to develop a procedure for evaluating and identifying reliably lower-risk 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.
- ! Clarifies that the board's duty to research and analyze the effectiveness of evaluation, identification, and treatment policies and procedures for adult sex offenders. The board shall review and research factors that contribute to reoffense and the containment model and its effective application and shall 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.

- ! Includes within the board's duties the existing requirement that the board collaborate with other agencies to establish standards for community entities that provide supervision and treatment for adult sex offenders who have developmental disabilities;
- ! Clarifies that the board and the individual board members shall be immune from liability for the good faith performance of all of the boards's duties set forth in statute and not just those duties set forth in the statutory section related to the sex offender management board's duties; and
- ! Requires the board to collaborate with certain agencies and advocacy groups to develop best-practice guidelines for providing services to persons with developmental disabilities with identified high-risk sex offending behaviors and to provide the guidelines to providers and to community centered boards.

Sections 4 and 5: 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 6: The bill repeals and reenacts, with amendments, the statutory section that addresses sex offender treatment. 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 DORA (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 shall provide the board with the results of the investigation and advise the board of any disciplinary action the DORA board takes with respect to a professional license. 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. The board shall review and investigate complaints or grievances against individuals providing polygraph services pursuant to the article.

Section 7: 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, and the report may include the board's recommendations for legislation related to treatment of sex

offenders.

Sections 8 and 9: The bill makes conforming amendments.

Sections 10 and 11: 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 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

4 **16-11.7-101. Legislative declaration.** (1) THE GENERAL
5 ASSEMBLY FINDS THAT TO PROTECT THE PUBLIC AND TO WORK TOWARD
6 THE ELIMINATION OF SEXUAL OFFENSES, IT IS NECESSARY TO
7 COMPREHENSIVELY EVALUATE, IDENTIFY, TREAT, MANAGE, AND MONITOR
8 ADULT SEX OFFENDERS WHO ARE SUBJECT TO THE SUPERVISION OF THE
9 CRIMINAL JUSTICE SYSTEM AND JUVENILES WHO HAVE COMMITTED
10 SEXUAL OFFENSES WHO ARE SUBJECT TO THE SUPERVISION OF THE
11 JUVENILE JUSTICE SYSTEM.

12 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS
13 NECESSARY TO CREATE A PROGRAM THAT EVIDENCE-BASED STANDARDS
14 FOR THE EVALUATION, IDENTIFICATION, TREATMENT, MANAGEMENT, AND
15 MONITORING OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
16 COMMITTED SEXUAL OFFENSES AT EACH STAGE OF THE CRIMINAL OR
17 JUVENILE JUSTICE SYSTEM, TO PREVENT OFFENDERS FROM REOFFENDING
18 AND ENHANCE THE PROTECTION OF VICTIMS AND POTENTIAL VICTIMS. ■

19 ■ THE GENERAL ASSEMBLY DOES NOT INTEND TO IMPLY THAT ALL
20 OFFENDERS CAN OR WILL POSITIVELY RESPOND TO TREATMENT.

21 **SECTION 2.** 16-11.7-102 (1) and (2) (a) (IV), Colorado Revised
22 Statutes, are amended, and the said 16-11.7-102 is further amended BY
23 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to

1 read:

2 **16-11.7-102. Definitions.** As used in this article, unless the
3 context otherwise requires:

4 (1) ~~"Board" means the sex offender management board created in~~
5 ~~section 16-11.7-103.~~ "ADULT SEX OFFENDER" MEANS A PERSON WHO
6 HAS BEEN CONVICTED, AS DESCRIBED IN SUBPARAGRAPHS (I) TO (III) OF
7 PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION, OF A SEX OFFENSE.

8 (1.3) "BOARD" MEANS THE SEX OFFENDER MANAGEMENT BOARD
9 CREATED IN SECTION 16-11.7-103.

10 (1.5) "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE" MEANS
11 A JUVENILE WHO HAS BEEN ADJUDICATED AS A JUVENILE OR WHO
12 RECEIVES A DEFERRED ADJUDICATION ON OR AFTER JULY 1, 2002, FOR AN
13 OFFENSE THAT WOULD CONSTITUTE A SEX OFFENSE, AS DEFINED IN
14 SUBSECTION (3) OF THIS SECTION, IF COMMITTED AS AN ADULT, OR A
15 JUVENILE WHO HAS COMMITTED ANY OFFENSE, THE UNDERLYING FACTUAL
16 BASIS OF WHICH INVOLVES A SEX OFFENSE.

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

18 (IV) ~~Adjudicated as a juvenile or who receives a deferred~~
19 ~~adjudication on or after July 1, 2002, for an offense that would constitute~~
20 ~~a sex offense if committed by an adult or for any offense, the underlying~~
21 ~~factual basis of which involves a sex offense~~ A JUVENILE WHO HAS
22 COMMITTED A SEXUAL OFFENSE.

23 **SECTION 3.** 16-11.7-103, Colorado Revised Statutes, is
24 RECREATED AND REENACTED, WITH AMENDMENTS, to read:

25 **16-11.7-103. Sex offender management board - creation -**
26 **duties - repeal.** (1) THERE IS HEREBY CREATED IN THE DEPARTMENT OF
27 PUBLIC SAFETY A SEX OFFENDER MANAGEMENT BOARD THAT SHALL

1 CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD
2 SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN
3 AND RURAL AREAS OF THE STATE AND A BALANCE OF EXPERTISE IN ADULT
4 AND JUVENILE ISSUES RELATING TO PERSONS WHO COMMIT SEX OFFENSES.
5 THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF THE FOLLOWING
6 PERSONS WHO SHALL BE APPOINTED AS FOLLOWS:

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

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

10 (II) ONE MEMBER WHO IS A DISTRICT COURT JUDGE; AND

11 (III) ONE MEMBER WHO IS A JUVENILE COURT JUDGE OR JUVENILE
12 COURT MAGISTRATE;

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

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

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

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

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

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

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

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

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

9 (IV) ONE MEMBER WHO IS A MEMBER OF A COMMUNITY
10 CORRECTIONS BOARD;

11 (V) ONE MEMBER WHO IS A PUBLIC DEFENDER WITH
12 RECOGNIZABLE EXPERTISE RELATED TO SEXUAL OFFENSES;

13 (VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT WITH
14 RECOGNIZABLE EXPERTISE IN ADDRESSING SEXUAL OFFENSES AND
15 VICTIMIZATION;

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

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

20 (IX) ONE MEMBER WHO IS A PRIVATE CRIMINAL DEFENSE
21 ATTORNEY WITH RECOGNIZABLE EXPERTISE RELATED TO SEXUAL
22 OFFENSES;

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

26 (XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS OR
27 MEMBERS OF THE GOVERNING COUNCIL FOR A JURISDICTION THAT IS A

1 CONTIGUOUS CITY AND COUNTY, ONE OF WHOM SHALL REPRESENT AN
2 URBAN OR SUBURBAN COUNTY AND ONE OF WHOM SHALL REPRESENT A
3 RURAL COUNTY, APPOINTED AFTER CONSULTATION WITH A STATEWIDE
4 GROUP REPRESENTING COUNTIES;

5 (e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT
6 ATTORNEYS' COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE
7 INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS RECOGNIZABLE
8 EXPERTISE IN PROSECUTING SEXUAL OFFENSES; AND

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

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

17 (3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF
18 THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT
19 THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF
20 PARAGRAPH (d) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1,
21 2011, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR
22 HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A
23 MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS OF THE BOARD
24 SHALL SERVE WITHOUT COMPENSATION.

25 (4) **Duties of the board.** THE BOARD SHALL CARRY OUT THE
26 FOLLOWING DUTIES:

27 (a) **Standards for identification and evaluation of adult sex**

1 **offenders.** THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
2 APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY
3 ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH
4 DEVELOPMENTAL DISABILITIES. THE PROCEDURES SHALL PROVIDE FOR AN
5 EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND
6 RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT BASED UPON
7 EXISTING RESEARCH DEMONSTRATING THAT SEXUALLY OFFENDING
8 BEHAVIOR IS REPETITIVE, AND THAT THERE IS CURRENTLY NO WAY TO
9 ENSURE THAT ADULT SEX OFFENDERS WITH THE PROPENSITY TO COMMIT
10 SEXUAL OFFENSES WILL NOT REOFFEND. BECAUSE THERE ARE ADULT SEX
11 OFFENDERS WHO CAN LEARN TO MANAGE UNHEALTHY PATTERNS AND
12 LEARN BEHAVIORS THAT CAN LESSEN THEIR RISK TO SOCIETY IN THE
13 COURSE OF ONGOING TREATMENT, MANAGEMENT, AND MONITORING, THE
14 BOARD SHALL DEVELOP A PROCEDURE FOR EVALUATING AND IDENTIFYING,
15 ON A CASE-BY-CASE BASIS, RELIABLY LOWER-RISK SEX OFFENDERS. THE
16 BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR
17 ADULT SEX OFFENDERS, WHICH METHODS HAVE AS A PRIORITY THE
18 PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND POTENTIAL
19 VICTIMS AND WHICH ARE APPROPRIATE TO THE ASSESSED NEEDS OF THE
20 PARTICULAR OFFENDER, SO LONG AS THERE IS NO REDUCTION IN THE
21 SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

22 (b) **Guidelines and standards for treatment for adult**
23 **offenders.** THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
24 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT ADULT SEX
25 OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL
26 DISABILITIES, WHICH GUIDELINES AND STANDARDS CAN BE USED IN THE
27 TREATMENT OF OFFENDERS WHO ARE PLACED ON PROBATION,

1 INCARCERATED WITH THE DEPARTMENT OF CORRECTIONS, PLACED ON
2 PAROLE, OR PLACED IN COMMUNITY CORRECTIONS. PROGRAMS
3 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
4 DEVELOPED PURSUANT TO THIS PARAGRAPH (b) SHALL BE AS FLEXIBLE AS
5 POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH ADULT SEX
6 OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS AND
7 POTENTIAL VICTIMS. PROGRAMS SHALL INCLUDE A CONTINUING
8 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
9 AVAILABLE TO AN ADULT SEX OFFENDER AS HE OR SHE PROCEEDS
10 THROUGH THE CRIMINAL JUSTICE SYSTEM. TREATMENT OPTIONS SHALL BE
11 DETERMINED BY A CURRENT RISK ASSESSMENT AND EVALUATION AND
12 MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING,
13 INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT,
14 INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, OR TREATMENT
15 IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO
16 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS
17 PARAGRAPH (b) SHALL, TO THE EXTENT POSSIBLE, BE ACCESSIBLE TO ALL
18 ADULT SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM, INCLUDING
19 THOSE OFFENDERS WITH MENTAL ILLNESS AND CO-OCCURRING DISORDERS.
20 THE PROCEDURES FOR EVALUATION, IDENTIFICATION, TREATMENT, AND
21 MONITORING DEVELOPED PURSUANT TO THIS SUBSECTION (4) SHALL BE
22 IMPLEMENTED ONLY TO THE EXTENT THAT MONEYS ARE AVAILABLE IN THE
23 SEX OFFENDER SURCHARGE FUND CREATED IN SECTION 18-21-103 (3),
24 C.R.S.

25 (c) **Allocation of moneys in sex offender surcharge fund.** THE
26 BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE ALLOCATION OF
27 MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE FUND CREATED

1 PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE JUDICIAL
2 DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION OF
3 CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE
4 DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL
5 COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER
6 SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE
7 DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) TO IDENTIFY,
8 EVALUATE, AND TREAT ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
9 COMMITTED SEXUAL OFFENSES. THE GENERAL ASSEMBLY MAY
10 APPROPRIATE MONEYS FROM THE SEX OFFENDER SURCHARGE FUND IN
11 ACCORDANCE WITH THE PLAN.

12 (d) **Risk assessment screening instrument.** THE BOARD SHALL
13 CONSULT ON, APPROVE, AND REVISE AS NECESSARY THE RISK ASSESSMENT
14 SCREENING INSTRUMENT DEVELOPED BY THE DIVISION OF CRIMINAL
15 JUSTICE TO ASSIST THE SENTENCING COURT IN DETERMINING THE
16 LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL COMMIT ONE OR MORE
17 OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5 (1) (a) (II), C.R.S.,
18 UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-414.5 (1) (a)
19 (III), C.R.S. IN CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER
20 RESEARCH ON ADULT SEX OFFENDER RISK ASSESSMENT AND SHALL
21 CONSIDER AS ONE ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER
22 WHO SUFFERS FROM PSYCHOPATHY OR A PERSONALITY DISORDER THAT
23 MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT
24 PREDATORY OFFENSES. ■ ■ ■ IF A DEFENDANT IS FOUND TO BE A
25 SEXUALLY VIOLENT PREDATOR, THE DEFENDANT SHALL BE REQUIRED TO
26 REGISTER PURSUANT TO ARTICLE 22 OF THIS TITLE AND SHALL BE SUBJECT
27 TO COMMUNITY NOTIFICATION PURSUANT TO PART 9 OF ARTICLE 13 OF

1 THIS TITLE.

2 (e) **Evaluation of policies and procedures - report.** (I) THE
3 BOARD SHALL RESEARCH, EITHER THROUGH DIRECT EVALUATION OR
4 THROUGH A REVIEW OF RELEVANT RESEARCH ARTICLES AND SEX
5 OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE, THROUGH A
6 COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE
7 EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT
8 POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED
9 PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY
10 INCLUDE, BUT NEED NOT BE LIMITED TO, REVIEWING AND RESEARCHING
11 REOFFENSE AND FACTORS THAT CONTRIBUTE TO REOFFENSE FOR SEX
12 OFFENDERS AS DEFINED IN THIS ARTICLE, THE EFFECTIVE USE OF
13 COGNITIVE BEHAVIORAL THERAPY TO PREVENT REOFFENSE, THE USE OF
14 POLYGRAPHS IN TREATMENT, AND THE CONTAINMENT MODEL FOR ADULT
15 SEX OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE
16 APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND STANDARDS
17 FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE,
18 BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE
19 BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT
20 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO PARAGRAPH
21 (b) OF THIS SUBSECTION (4).

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

1 TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

2 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
3 2012.

4 (f) **Criteria for measuring progress in treatment.**

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

27 (II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF

1 CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF
2 PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT
3 PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR
4 ADULT SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A
5 MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY
6 WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY
7 THREAT THAT THE ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

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

23 (h) **Standards for identification and evaluation of juvenile**
24 **offenders.** THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS
25 APPROPRIATE, A STANDARD PROCEDURE TO EVALUATE AND IDENTIFY
26 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING
27 JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL

1 PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE
2 OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING,
3 TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL
4 UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY AND
5 THAT CERTAIN JUVENILES MAY HAVE THE CAPACITY TO CHANGE THEIR
6 BEHAVIOR WITH APPROPRIATE INTERVENTION AND TREATMENT. THE
7 BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR
8 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS
9 HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF
10 VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE
11 NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO
12 REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

13 (i) **Guidelines and standards for treatment for juvenile**
14 **offenders.** THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS
15 APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT JUVENILES WHO
16 HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH
17 DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS MAY
18 BE USED FOR JUVENILE OFFENDERS WHO ARE PLACED ON PROBATION,
19 COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, PLACED ON
20 PAROLE, OR PLACED IN OUT-OF-HOME PLACEMENT. PROGRAMS
21 IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS
22 DEVELOPED PURSUANT TO THIS PARAGRAPH (i) SHALL BE AS FLEXIBLE AS
23 POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH JUVENILE
24 OFFENDER TO PREVENT HIM OR HER FROM HARMING VICTIMS AND
25 POTENTIAL VICTIMS. PROGRAMS SHALL PROVIDE A CONTINUING
26 MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS
27 AVAILABLE TO A JUVENILE OFFENDER AS HE OR SHE PROCEEDS THROUGH

1 THE JUVENILE JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT
2 NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING,
3 FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT,
4 SHARED LIVING ARRANGEMENTS, AND TREATMENT IN A THERAPEUTIC
5 COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES
6 AND STANDARDS DEVELOPED PURSUANT TO THIS PARAGRAPH (i) SHALL BE,
7 TO THE EXTENT POSSIBLE, ACCESSIBLE TO ALL JUVENILES WHO HAVE
8 COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE JUVENILE JUSTICE
9 SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR CO-OCCURRING
10 DISORDERS.

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

21 (k) **Educational materials.** THE BOARD, IN COLLABORATION
22 WITH LAW ENFORCEMENT AGENCIES, VICTIM ADVOCACY ORGANIZATIONS,
23 THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF PUBLIC
24 SAFETY, SHALL DEVELOP AND REVISE, AS APPROPRIATE, FOR USE BY
25 SCHOOLS, THE STATEMENT IDENTIFIED IN SECTION 22-1-124, C.R.S., AND
26 EDUCATIONAL MATERIALS REGARDING GENERAL INFORMATION ABOUT
27 ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL

1 OFFENSES, SAFETY CONCERNS RELATED TO SUCH OFFENDERS, AND OTHER
2 RELEVANT MATERIALS. THE BOARD SHALL PROVIDE THE STATEMENT AND
3 MATERIALS TO THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT
4 OF EDUCATION SHALL MAKE THE STATEMENT AND MATERIALS AVAILABLE
5 TO SCHOOLS IN THE STATE.

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

11 (6) **Repeal.** (a) THIS SECTION IS REPEALED, EFFECTIVE
12 SEPTEMBER 1, 2015.

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

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

18 **16-11.7-104. Sex offenders - evaluation and identification**
19 **required.** (1) On and after January 1, 1994, each CONVICTED ADULT sex
20 offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE who is
21 to be considered for probation shall be required, as a part of the
22 presentence or probation investigation required pursuant to section
23 16-11-102, to submit to an evaluation for treatment, an evaluation for
24 risk, procedures required for monitoring of behavior to protect victims
25 and potential victims, and an identification developed pursuant to section
26 16-11.7-103 (4). (a):

27 **SECTION 5.** 16-11.7-105, Colorado Revised Statutes, is

1 amended to read:

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

21 ~~(2) Each sex offender placed on parole by the state board of parole~~
22 ~~on or after January 1, 1994, shall be required, as a condition of such~~
23 ~~parole, to undergo treatment to the extent appropriate to such offender~~
24 ~~based upon the recommendations of the evaluation and identification~~
25 ~~pursuant to section 16-11.7-104 or any evaluation or subsequent~~
26 ~~reevaluation regarding such offender during the offender's incarceration~~
27 ~~or any period of parole. Any such treatment shall be at a facility or with~~

1 ~~a person certified or approved by the board and at such offender's~~
2 ~~expense, based upon such offender's ability to pay for such treatment.~~

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

5 **16-11.7-106. Sex offender evaluation, treatment, and**
6 **polygraph services - contracts with providers - placement on**
7 **provider list - grievances - fund created.** (1) THE DEPARTMENT OF
8 CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL
9 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF
10 HUMAN SERVICES SHALL NOT EMPLOY OR CONTRACT WITH, AND SHALL
11 NOT ALLOW AN ADULT SEX OFFENDER OR A JUVENILE WHO HAS
12 COMMITTED A SEXUAL OFFENSE TO EMPLOY OR CONTRACT WITH, AN
13 INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION,
14 TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE UNLESS
15 THE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH
16 SERVICES TO BE PROVIDED BY THE INDIVIDUAL OR ENTITY CONFORM WITH
17 THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SECTION
18 16-11.7-103, AND THE NAME OF THE INDIVIDUAL PROVIDING SERVICES IS
19 ON THE LIST CREATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2)
20 OF THIS SECTION OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC
21 SERVICES.

22 (2) (a) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
23 PROCESS FOR TREATMENT PROVIDERS, EVALUATORS, AND POLYGRAPH
24 EXAMINERS WHO PROVIDE SERVICES PURSUANT TO THIS ARTICLE TO ADULT
25 SEX OFFENDERS AND TO JUVENILES WHO HAVE COMMITTED SEXUAL
26 OFFENSES. THE APPLICATION AND REVIEW PROCESS SHALL ALLOW
27 PROVIDERS TO DEMONSTRATE THAT THEY ARE IN COMPLIANCE WITH THE

1 STANDARDS ADOPTED PURSUANT TO THIS ARTICLE. THE APPLICATION AND
2 REVIEW PROCESS SHALL CONSIST OF THE FOLLOWING THREE PARTS:

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

18 (II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW
19 PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND
20 CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH
21 EXAMINERS.

22 (III) THE BOARD SHALL REQUIRE A PERSON WHO APPLIES FOR
23 PLACEMENT, INCLUDING A PERSON WHO APPLIES FOR CONTINUED
24 PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE
25 SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH
26 SERVICES PURSUANT TO THIS ARTICLE TO SUBMIT TO A CURRENT
27 BACKGROUND INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE

1 CRIMINAL HISTORY RECORD CHECK DESCRIBED IN SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH (a). IN CONDUCTING THE CURRENT BACKGROUND
3 INVESTIGATION REQUIRED BY THIS SUBPARAGRAPH (III), THE BOARD
4 SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND
5 RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS
6 TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND
7 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

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

18 (3) THE BOARD SHALL USE THE INFORMATION OBTAINED FROM THE
19 STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS AND THE
20 CURRENT BACKGROUND INVESTIGATION IN DETERMINING WHETHER TO
21 PLACE OR CONTINUE THE PLACEMENT OF A PERSON ON THE APPROVED
22 PROVIDER LIST.

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

27 (5) THE BOARD SHALL DEVELOP A RENEWAL PROCESS FOR THE

1 CONTINUED PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST
2 PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS
3 SECTION.

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

26 (7) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS
27 PARAGRAPH (a), THE BOARD SHALL REFER TO THE DEPARTMENT OF

1 REGULATORY AGENCIES FOR INVESTIGATION ANY COMPLAINTS OR
2 GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC
3 TREATMENT OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE. THE
4 DEPARTMENT OF REGULATORY AGENCIES SHALL NOTIFY THE BOARD OF
5 THE RECEIPT OF ANY COMPLAINT OR GRIEVANCE AGAINST A PROVIDER IF
6 THE COMPLAINT OR GRIEVANCE WAS NOT REFERRED BY THE BOARD.

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

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

23 (IV) COMPLAINTS OR GRIEVANCES AGAINST INDIVIDUALS WHO
24 PROVIDE POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE SHALL BE
25 REVIEWED AND INVESTIGATED BY THE BOARD.

26 (b) (I) NOTWITHSTANDING ANY ACTION TAKEN BY THE
27 DEPARTMENT OF REGULATORY AGENCIES OR THE DORA BOARD, THE

1 BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION, AS PERMITTED BY
2 LAW, AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER
3 EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS
4 ARTICLE, WHICH DISCIPLINARY ACTION MAY INCLUDE, BUT NEED NOT BE
5 LIMITED TO, THE REMOVAL OF THE INDIVIDUAL'S NAME FROM THE LIST OF
6 PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR
7 POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

8 (II) NOTHING IN THIS SUBSECTION (7) SHALL LIMIT THE RIGHTS OR
9 RESPONSIBILITIES OF THE BOARD WITH RESPECT TO THE APPROVAL OR
10 REMOVAL OF AN INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY
11 PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH
12 SERVICES PURSUANT TO THIS ARTICLE.

13 **SECTION 7.** Article 11.7 of title 16, Colorado Revised Statutes,
14 is amended BY THE ADDITION OF A NEW SECTION to read:

15 **16-11.7-109. Reporting requirements - legislative declaration.**

16 (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

17 (I) AS A BODY, THE BOARD IS ONE OF COLORADO'S MOST
18 IMPORTANT RESOURCES ON THE TREATMENT AND MANAGEMENT OF ADULT
19 SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL
20 OFFENSES;

21 (II) THE BOARD'S RESEARCH AND ANALYSIS OF TREATMENT
22 STANDARDS AND PROGRAMS, AS WELL AS EMPIRICAL EVIDENCE
23 COLLECTED AND COMPILED BY THE BOARD WITH RESPECT TO THE
24 TREATMENT OUTCOMES OF ADULT SEX OFFENDERS AND JUVENILES WHO
25 HAVE COMMITTED SEXUAL OFFENSES, IS VITAL TO INFORM THE DECISIONS
26 OF POLICYMAKERS.

27 (b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS

1 APPROPRIATE FOR THE BOARD TO REPORT TO THE GENERAL ASSEMBLY ON
2 AN ANNUAL BASIS CONCERNING THE STATUS OF THE TREATMENT AND
3 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
4 COMMITTED SEXUAL OFFENSES IN COLORADO.

5 (2) ON OR BEFORE JANUARY 31, 2012, AND ON OR BEFORE
6 JANUARY 31 EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE AND
7 PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE
8 OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN
9 REPORT CONCERNING BEST PRACTICES FOR THE TREATMENT AND
10 MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE
11 COMMITTED SEXUAL OFFENSES, INCLUDING ANY EVIDENCE-BASED
12 ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS AS WELL AS
13 INFORMATION CONCERNING ANY NEW FEDERAL LEGISLATION RELATING TO
14 THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND
15 JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE REPORT MAY
16 INCLUDE THE BOARD'S RECOMMENDATIONS FOR LEGISLATION TO CARRY
17 OUT THE PURPOSE AND DUTIES OF THE BOARD TO PROTECT THE
18 COMMUNITY.

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

21 **16-11-102. Presentence or probation investigation.**

22 (1) (b) Each presentence report prepared regarding a sex offender, as
23 defined in section 16-11.7-102 (2), with respect to any offense committed
24 on or after January 1, 1996, shall contain the results of an evaluation and
25 identification conducted pursuant to article 11.7 of this title. In addition,
26 the presentence report shall include, when appropriate as provided in
27 section 18-3-414.5, C.R.S., the results of the risk assessment screening

1 instrument developed pursuant to section 16-11.7-103 (4) ~~(e.5)~~ (d).
2 Notwithstanding the provisions of subsection (4) of this section, a
3 presentence report shall be prepared for each person convicted as a sex
4 offender, and the court may not dispense with the presentence evaluation,
5 risk assessment, and report unless such a report has been completed
6 within the last six months and there has been no material change that
7 would affect the report in the past six months.

8 **SECTION 9.** 16-22-103 (5) (a) (IV), Colorado Revised Statutes,
9 is amended to read:

10 **16-22-103. Sex offender registration - required - applicability**
11 **- exception.** (5) (a) Notwithstanding any provision of this article to the
12 contrary, if, pursuant to a motion filed by a person described in this
13 subsection (5) or on its own motion, a court determines that the
14 registration requirement specified in this section would be unfairly
15 punitive and that exempting the person from the registration requirement
16 would not pose a significant risk to the community, the court, upon
17 consideration of the totality of the circumstances, may exempt the person
18 from the registration requirements imposed pursuant to this section if:

19 (IV) The person has received a sex offender evaluation that
20 conforms with the standards developed pursuant to section 16-11.7-103
21 (4) ~~(f)~~ (h), from an evaluator who meets the standards established by the
22 sex offender management board, and the evaluator recommends
23 exempting the person from the registration requirements based upon the
24 best interests of that person and the community; and

25 **SECTION 10. Repeal.** 24-34-104 (41) (l), Colorado Revised
26 Statutes, is repealed as follows:

27 **24-34-104. General assembly review of regulatory agencies**

1 **and functions for termination, continuation, or reestablishment.**

2 (41) The following agencies, functions, or both, shall terminate on July
3 1, 2010:

4 (l) ~~The sex offender management board, created by section~~
5 ~~16-11.7-103, C.R.S.;~~

6 **SECTION 11.** 24-34-104 (46), Colorado Revised Statutes, is
7 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

8 **24-34-105. General assembly review of regulatory agencies**
9 **and functions for termination, continuation, or reestablishment.**

10 (46) The following agencies, functions, or both shall terminate on July
11 1, 2015:

12 (o) ~~THE SEX OFFENDER MANAGEMENT BOARD CREATED IN SECTION~~
13 ~~16-11.7-103, C.R.S.~~

14 **SECTION 12. Appropriation.** (1) In addition to any other
15 appropriation, there is hereby appropriated, out of any moneys in the
16 general fund not otherwise appropriated, to the department of public
17 safety, for allocation to the division of criminal justice, for sex offender
18 supervision, for the fiscal year beginning July 1, 2011, the sum of three
19 hundred eighteen thousand five hundred sixty-five dollars (\$318,565) and
20 3.2 FTE, or so much thereof as may be necessary, for the implementation
21 of this act.

22 (2) In addition to any other appropriation, there is hereby
23 appropriated, out of any moneys in the sex offender surcharge fund
24 created in section 18-21-103 (3), Colorado Revised Statutes, not
25 otherwise appropriated, to the department of public safety, for allocation
26 to the division of criminal justice, for the sex offender surcharge fund
27 program, for the fiscal year beginning July 1, 2011, the sum of one

1 hundred fifty-two thousand five hundred thirty-six dollars (\$152,536)
2 cash funds and 1.5 FTE, or so much thereof as may be necessary, for the
3 implementation of this act.

4 **SECTION 13. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.