

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 10-1364

BY REPRESENTATIVE(S) Ryden, Court, Kagan, Labuda, Levy, Miklosi, Schafer S., Todd;
also SENATOR(S) Hudak, Boyd, Foster, Newell, Steadman, Carroll M., King K.

CONCERNING THE SEX OFFENDER MANAGEMENT BOARD, AND, IN CONNECTION THEREWITH, CONTINUING THE SEX OFFENDER MANAGEMENT BOARD, AND MAKING AN APPROPRIATION.

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

SECTION 1. 16-11.7-101, Colorado Revised Statutes, is amended to read:

16-11.7-101. Legislative declaration. The general assembly hereby declares that ~~the comprehensive evaluation, identification, treatment, and continued monitoring of~~ IT IS NECESSARY TO COMPREHENSIVELY EVALUATE, IDENTIFY, TREAT, MANAGE, AND MONITOR ADULT sex offenders who are subject to the supervision of the criminal justice system ~~is necessary~~ AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES WHO ARE SUBJECT TO THE SUPERVISION OF THE JUVENILE JUSTICE SYSTEM in order to work toward ~~the elimination of~~ ELIMINATING recidivism by such offenders. Therefore, the general assembly hereby creates a program ~~which~~ THAT standardizes the

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

evaluation, identification, treatment, MANAGEMENT, and ~~continued~~ monitoring of ADULT sex offenders AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES at each stage of the criminal OR JUVENILE justice system so that such offenders will curtail recidivistic behavior and the protection of victims and potential victims will be enhanced. The general assembly hereby recognizes that ~~some sex~~ CERTAIN offenders cannot or will not respond to treatment and that, in creating the program described in this article, the general assembly does not intend to imply that all ~~sex~~ offenders can be successful in treatment.

SECTION 2. 16-11.7-102 (1), Colorado Revised Statutes, is amended, and the said 16-11.7-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

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

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

(1.5) "JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE" MEANS A JUVENILE WHO HAS COMMITTED AN OFFENSE AS DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION.

SECTION 3. 16-11.7-103, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16-11.7-103. Sex offender management board - creation - duties - repeal. (1) THERE IS HEREBY CREATED, IN THE DEPARTMENT OF PUBLIC SAFETY, A SEX OFFENDER MANAGEMENT BOARD THAT SHALL CONSIST OF TWENTY-FIVE MEMBERS. THE MEMBERSHIP OF THE BOARD SHALL REFLECT, TO THE EXTENT POSSIBLE, REPRESENTATION OF URBAN AND RURAL AREAS OF THE STATE. THE MEMBERSHIP OF THE BOARD SHALL CONSIST OF THE

FOLLOWING PERSONS WHO SHALL BE APPOINTED AS FOLLOWS:

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

(I) ONE MEMBER WHO REPRESENTS THE JUDICIAL DEPARTMENT;

(II) ONE MEMBER WHO IS A JUDGE; AND

(III) ONE MEMBER WHO IS A JUVENILE COURT MAGISTRATE WITH EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

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

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

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

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

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

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

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

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

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

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

(V) ONE MEMBER WHO IS A PUBLIC DEFENDER AND WHO HAS EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

(VI) ONE MEMBER WHO REPRESENTS LAW ENFORCEMENT AND WHO HAS EXPERTISE IN DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

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

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

(IX) ONE MEMBER WHO IS A PRIVATE CRIMINAL DEFENSE ATTORNEY WITH EXPERTISE IN REPRESENTING SEX OFFENDERS;

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

(XI) TWO MEMBERS WHO ARE COUNTY COMMISSIONERS, ONE OF WHOM SHALL REPRESENT AN URBAN OR SUBURBAN COUNTY AND ONE OF WHOM SHALL REPRESENT A RURAL COUNTY, APPOINTED AFTER CONSULTATION WITH A STATEWIDE GROUP REPRESENTING COUNTIES;

(e) THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS COUNCIL SHALL APPOINT ONE MEMBER WHO REPRESENTS THE INTERESTS OF PROSECUTING ATTORNEYS AND WHO HAS EXPERTISE IN DEALING WITH ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES; AND

(f) THE COMMISSIONER OF EDUCATION SHALL APPOINT ONE MEMBER

WHO HAS EXPERIENCE DEALING WITH JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE PUBLIC SCHOOL SYSTEM.

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

(3) MEMBERS OF THE BOARD SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY FOR TERMS OF FOUR YEARS; EXCEPT THAT THE MEMBER APPOINTED PURSUANT TO SUBPARAGRAPH (IX) OF PARAGRAPH (c) OF SUBSECTION (1) OF THIS SECTION PRIOR TO JULY 1, 2010, SHALL SERVE THE TERM OF YEARS IN EFFECT AT THE TIME OF HIS OR HER APPOINTMENT. THE APPOINTING AUTHORITY MAY REAPPOINT A MEMBER FOR AN ADDITIONAL TERM OR TERMS. MEMBERS SHALL SERVE WITHOUT COMPENSATION.

(4) THE BOARD SHALL CARRY OUT THE FOLLOWING DUTIES:

(a) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE ADULT SEX OFFENDER AND RECOMMEND MANAGEMENT, MONITORING, AND TREATMENT FOR THE OFFENDER BASED UPON THE KNOWLEDGE THAT CERTAIN ADULT SEX OFFENDERS ARE EXTREMELY HABITUATED AND CANNOT OR WILL NOT RESPOND TO TREATMENT. THE BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR ADULT SEX OFFENDERS, WHICH METHODS HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND POTENTIAL VICTIMS AND WHICH ARE APPROPRIATE TO THE NEEDS OF THE PARTICULAR OFFENDER, SO LONG AS THERE IS NO REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

(b) (I) THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT ADULT SEX OFFENDERS, INCLUDING ADULT SEX OFFENDERS WITH DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS CAN BE USED IN THE TREATMENT OF OFFENDERS WHO ARE PLACED ON PROBATION,

INCARCERATED WITH THE DEPARTMENT OF CORRECTIONS, PLACED ON PAROLE, OR PLACED IN COMMUNITY CORRECTIONS. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE AS FLEXIBLE AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH ADULT SEX OFFENDER TO PREVENT THE OFFENDER FROM HARMING VICTIMS AND POTENTIAL VICTIMS. PROGRAMS SHALL INCLUDE A CONTINUING MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS AVAILABLE TO AN ADULT SEX OFFENDER AS HE OR SHE PROCEEDS THROUGH THE CRIMINAL JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, OR TREATMENT IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL, TO THE EXTENT POSSIBLE, BE ACCESSIBLE TO ALL ADULT SEX OFFENDERS IN THE CRIMINAL JUSTICE SYSTEM, INCLUDING THOSE OFFENDERS WITH MENTAL ILLNESS AND CO-OCCURRING DISORDERS. THE PROCEDURES FOR EVALUATION, IDENTIFICATION, TREATMENT, AND MONITORING REQUIRED TO BE DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) AND PARAGRAPH (a) OF THIS SUBSECTION (4) SHALL BE IMPLEMENTED ONLY TO THE EXTENT MONEYS ARE AVAILABLE IN THE SEX OFFENDER SURCHARGE FUND CREATED IN SECTION 18-21-103 (3), C.R.S.

(II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL INCLUDE THE REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AND THE SEX OFFENDER TREATMENT PROGRAM PROVIDE THE BOARD WITH THE DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT THE BOARD DEEMS NECESSARY CONCERNING THE ADULT SEX OFFENDERS BEING EVALUATED OR TREATED AND THAT THE FAILURE TO COMPLY WITH THE REQUIREMENT MAY RESULT IN THE REMOVAL OF THE PROVIDER'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

(c) THE BOARD SHALL DEVELOP AN ANNUAL PLAN FOR THE ALLOCATION OF MONEYS DEPOSITED IN THE SEX OFFENDER SURCHARGE FUND CREATED PURSUANT TO SECTION 18-21-103 (3), C.R.S., AMONG THE JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, THE DIVISION

OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF HUMAN SERVICES. IN ADDITION, THE BOARD SHALL COORDINATE THE EXPENDITURE OF MONEYS FROM THE SEX OFFENDER SURCHARGE FUND WITH ANY MONEYS EXPENDED BY ANY OF THE DEPARTMENTS DESCRIBED IN THIS PARAGRAPH (c) FOR THE IDENTIFICATION, EVALUATION, AND TREATMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEYS FROM THE SEX OFFENDER SURCHARGE FUND IN ACCORDANCE WITH THE PLAN.

(d) THE BOARD SHALL CONSULT ON, APPROVE, AND REVISE AS NECESSARY THE RISK ASSESSMENT SCREENING INSTRUMENT DEVELOPED BY THE DIVISION OF CRIMINAL JUSTICE TO ASSIST THE SENTENCING COURT IN DETERMINING THE LIKELIHOOD THAT AN ADULT SEX OFFENDER WILL COMMIT ONE OR MORE OF THE OFFENSES SPECIFIED IN SECTION 18-3-414.5 (1) (a) (II), C.R.S., UNDER THE CIRCUMSTANCES DESCRIBED IN SECTION 18-3-414.5 (1) (a) (III), C.R.S. STATE GENERAL FUND MONEYS SHALL NOT BE USED TO DEVELOP THE RISK ASSESSMENT SCREENING INSTRUMENT. IN CARRYING OUT THIS DUTY, THE BOARD SHALL CONSIDER ADULT SEX OFFENDER RISK ASSESSMENT RESEARCH AND SHALL CONSIDER AS ONE ELEMENT THE RISK POSED BY AN ADULT SEX OFFENDER WHO SUFFERS FROM A MENTAL ABNORMALITY, PSYCHOSIS, OR PERSONALITY DISORDER THAT MAKES THE PERSON MORE LIKELY TO ENGAGE IN SEXUALLY VIOLENT PREDATORY OFFENSES. FOR PURPOSES OF THIS SUBSECTION (4) ONLY, "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED CONDITION THAT AFFECTS THE EMOTIONAL OR VOLITIONAL CAPACITY OF A PERSON IN A MANNER THAT PREDISPOSES THAT PERSON TO THE COMMISSION OF CRIMINAL SEXUAL ACTS TO A DEGREE THAT MAKES THE PERSON A SIGNIFICANT RISK TO THE HEALTH AND SAFETY OF OTHER PERSONS. IF A DEFENDANT IS FOUND TO BE A SEXUALLY VIOLENT PREDATOR, THE DEFENDANT SHALL BE REQUIRED TO REGISTER PURSUANT TO ARTICLE 22 OF THIS TITLE AND SHALL BE SUBJECT TO COMMUNITY NOTIFICATION PURSUANT TO PART 9 OF ARTICLE 13 OF THIS TITLE.

(e) (I) THE BOARD SHALL RESEARCH, THROUGH DIRECT EVALUATION OR THROUGH A REVIEW OF RELEVANT RESEARCH ARTICLES AND SEX OFFENDER TREATMENT EMPIRICAL DATA, AND ANALYZE, THROUGH A COMPREHENSIVE REVIEW OF EVIDENCE-BASED PRACTICES, THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT POLICIES AND PROCEDURES FOR ADULT SEX OFFENDERS DEVELOPED

PURSUANT TO THIS ARTICLE. THIS RESEARCH SHALL SPECIFICALLY INCLUDE, BUT SHALL NOT BE LIMITED TO, REVIEWING AND RESEARCHING THE NO-CURE POLICY AS IT RELATES TO ALL SEX OFFENDERS AS DEFINED IN THIS ARTICLE AND THE CONTAINMENT MODEL FOR ADULT SEX OFFENDER MANAGEMENT AND TREATMENT AND ITS EFFECTIVE APPLICATION. THE BOARD SHALL REVISE THE GUIDELINES AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SUBPARAGRAPH (I) OF PARAGRAPH (b) OF THIS SUBSECTION (4).

(II) ON OR BEFORE DECEMBER 1, 2011, THE BOARD SHALL SUBMIT AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN REPORT OF THE BOARD'S FINDINGS AFTER RESEARCHING AND ANALYZING, AS REQUIRED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (e), THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE.

(f) (I) PURSUANT TO SECTION 18-1.3-1009, C.R.S., CONCERNING THE CRITERIA FOR RELEASE FROM INCARCERATION, REDUCTION IN SUPERVISION, AND DISCHARGE FOR CERTAIN ADULT SEX OFFENDERS, THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL DEVELOP AND REVISE, AS APPROPRIATE, CRITERIA FOR MEASURING AN ADULT SEX OFFENDER'S PROGRESS IN TREATMENT. THE CRITERIA SHALL ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER AN ADULT SEX OFFENDER MAY APPROPRIATELY BE RELEASED FROM INCARCERATION PURSUANT TO SECTION 18-1.3-1006 (1), C.R.S., OR WHETHER THE ADULT SEX OFFENDER'S LEVEL OF SUPERVISION MAY BE REDUCED PURSUANT TO SECTION 18-1.3-1006 (2) (a) OR 18-1.3-1008, C.R.S., OR WHETHER THE ADULT SEX OFFENDER MAY APPROPRIATELY BE DISCHARGED FROM PROBATION OR PAROLE PURSUANT TO SECTION 18-1.3-1006 OR 18-1.3-1008, C.R.S. AT A MINIMUM, THE CRITERIA SHALL BE DESIGNED TO ASSIST THE COURT AND THE STATE BOARD OF PAROLE IN DETERMINING WHETHER THE ADULT SEX OFFENDER COULD BE APPROPRIATELY SUPERVISED IN THE COMMUNITY IF HE OR SHE WERE RELEASED FROM INCARCERATION, RELEASED TO A REDUCED LEVEL OF SUPERVISION, OR DISCHARGED FROM PROBATION OR PAROLE. THE CRITERIA

SHALL NOT LIMIT THE DECISION-MAKING AUTHORITY OF THE COURT OR THE STATE BOARD OF PAROLE.

(II) THE BOARD, IN COLLABORATION WITH THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, AND THE STATE BOARD OF PAROLE, SHALL ESTABLISH STANDARDS FOR COMMUNITY ENTITIES THAT PROVIDE SUPERVISION AND TREATMENT SPECIFICALLY DESIGNED FOR ADULT SEX OFFENDERS WHO HAVE DEVELOPMENTAL DISABILITIES. AT A MINIMUM, THE STANDARDS SHALL DETERMINE WHETHER AN ENTITY WOULD PROVIDE ADEQUATE SUPPORT AND SUPERVISION TO MINIMIZE ANY THREAT THAT THE ADULT SEX OFFENDER MAY POSE TO THE COMMUNITY.

(g) THE BOARD SHALL RESEARCH, ANALYZE, AND MAKE RECOMMENDATIONS THAT REFLECT BEST PRACTICES FOR LIVING ARRANGEMENTS FOR AND THE LOCATION OF ADULT SEX OFFENDERS WITHIN THE COMMUNITY, INCLUDING BUT NOT LIMITED TO SHARED LIVING ARRANGEMENTS. AT A MINIMUM, THE BOARD SHALL CONSIDER THE SAFETY ISSUES RAISED BY THE LOCATION OF SEX OFFENDER RESIDENCES, ESPECIALLY IN PROXIMITY TO PUBLIC OR PRIVATE SCHOOLS AND CHILD CARE FACILITIES, AND PUBLIC NOTIFICATION OF THE LOCATION OF SEX OFFENDER RESIDENCES. THE BOARD SHALL ADOPT AND REVISE AS APPROPRIATE SUCH GUIDELINES AS IT MAY DEEM APPROPRIATE REGARDING THE LIVING ARRANGEMENTS AND LOCATION OF ADULT SEX OFFENDERS AND ADULT SEX OFFENDER HOUSING. THE BOARD SHALL ACCOMPLISH THE REQUIREMENTS SPECIFIED IN THIS PARAGRAPH (g) WITHIN EXISTING APPROPRIATIONS.

(h) THE BOARD SHALL DEVELOP, PRESCRIBE, AND REVISE AS APPROPRIATE, A STANDARDIZED PROCEDURE TO EVALUATE AND IDENTIFY JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH DEVELOPMENTAL DISABILITIES. THE PROCEDURE SHALL PROVIDE FOR AN EVALUATION AND IDENTIFICATION OF THE JUVENILE OFFENDER AND RECOMMEND BEHAVIOR MANAGEMENT, MONITORING, TREATMENT, AND COMPLIANCE BASED UPON THE KNOWLEDGE THAT ALL UNLAWFUL SEXUAL BEHAVIOR POSES A RISK TO THE COMMUNITY. THE BOARD SHALL DEVELOP AND IMPLEMENT METHODS OF INTERVENTION FOR JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, WHICH METHODS HAVE AS A PRIORITY THE PHYSICAL AND PSYCHOLOGICAL SAFETY OF VICTIMS AND POTENTIAL VICTIMS AND THAT ARE APPROPRIATE TO THE NEEDS OF THE PARTICULAR JUVENILE OFFENDER, SO LONG AS THERE IS NO REDUCTION IN THE SAFETY OF VICTIMS AND POTENTIAL VICTIMS.

(i) (I) THE BOARD SHALL DEVELOP, IMPLEMENT, AND REVISE AS APPROPRIATE, GUIDELINES AND STANDARDS TO TREAT JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING JUVENILES WITH DEVELOPMENTAL DISABILITIES, WHICH GUIDELINES AND STANDARDS MAY BE USED FOR JUVENILE OFFENDERS WHO ARE PLACED ON PROBATION, COMMITTED TO THE DEPARTMENT OF HUMAN SERVICES, PLACED ON PAROLE, OR PLACED IN OUT-OF-HOME PLACEMENT. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE AS FLEXIBLE AS POSSIBLE SO THAT THE PROGRAMS MAY BE ACCESSED BY EACH JUVENILE OFFENDER TO PREVENT HIM OR HER FROM HARMING VICTIMS AND POTENTIAL VICTIMS. PROGRAMS SHALL PROVIDE A CONTINUING MONITORING PROCESS AND A CONTINUUM OF TREATMENT OPTIONS AVAILABLE TO A JUVENILE OFFENDER AS HE OR SHE PROCEEDS THROUGH THE JUVENILE JUSTICE SYSTEM. TREATMENT OPTIONS MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GROUP COUNSELING, INDIVIDUAL COUNSELING, FAMILY COUNSELING, OUTPATIENT TREATMENT, INPATIENT TREATMENT, SHARED LIVING ARRANGEMENTS, AND TREATMENT IN A THERAPEUTIC COMMUNITY. PROGRAMS IMPLEMENTED PURSUANT TO THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE, TO THE EXTENT POSSIBLE, ACCESSIBLE TO ALL JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES AND WHO ARE IN THE JUVENILE JUSTICE SYSTEM, INCLUDING JUVENILES WITH MENTAL ILLNESS OR CO-OCCURRING DISORDERS.

(II) THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (i) SHALL INCLUDE THE REQUIREMENT THAT THE INDIVIDUAL PROVIDING EVALUATION OR TREATMENT SERVICES PURSUANT TO THIS ARTICLE AND A PROGRAM TREATING JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES PROVIDE THE BOARD WITH THE DATA, EITHER AGGREGATE OR INDIVIDUAL, THAT THE BOARD DEEMS NECESSARY CONCERNING THE JUVENILE OFFENDER BEING EVALUATED OR TREATED AND THAT THE FAILURE TO COMPLY WITH THE REQUIREMENT MAY RESULT IN THE REMOVAL OF THE PROVIDER'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

(j) THE BOARD SHALL RESEARCH AND ANALYZE THE EFFECTIVENESS OF THE EVALUATION, IDENTIFICATION, AND TREATMENT PROCEDURES DEVELOPED PURSUANT TO THIS ARTICLE FOR JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE BOARD SHALL REVISE THE GUIDELINES

AND STANDARDS FOR EVALUATION, IDENTIFICATION, AND TREATMENT, AS APPROPRIATE, BASED UPON THE RESULTS OF THE BOARD'S RESEARCH AND ANALYSIS. THE BOARD SHALL ALSO DEVELOP AND PRESCRIBE A SYSTEM TO IMPLEMENT THE GUIDELINES AND STANDARDS DEVELOPED PURSUANT TO PARAGRAPH (i) OF THIS SUBSECTION (4).

(k) THE BOARD, IN COLLABORATION WITH LAW ENFORCEMENT AGENCIES, VICTIM ADVOCACY ORGANIZATIONS, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF PUBLIC SAFETY, SHALL DEVELOP AND REVISE, AS APPROPRIATE, FOR USE BY SCHOOLS, THE STATEMENT IDENTIFIED IN SECTION 22-1-124, C.R.S., AND EDUCATIONAL MATERIALS REGARDING GENERAL INFORMATION ABOUT ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, SAFETY CONCERNS RELATED TO SUCH OFFENDERS, AND OTHER RELEVANT MATERIALS. THE BOARD SHALL PROVIDE THE STATEMENT AND MATERIALS TO THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF EDUCATION SHALL MAKE THE STATEMENT AND MATERIALS AVAILABLE TO SCHOOLS IN THE STATE.

(5) THE BOARD AND THE INDIVIDUAL BOARD MEMBERS SHALL BE IMMUNE FROM ANY LIABILITY, WHETHER CIVIL OR CRIMINAL, FOR THE GOOD FAITH PERFORMANCE OF THE DUTIES OF THE BOARD.

(6) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

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

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

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

SECTION 5. 16-11.7-105, Colorado Revised Statutes, is amended to read:

16-11.7-105. Sentencing of sex offenders - treatment based upon evaluation and identification required. (1) Each ADULT sex offender AND JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE sentenced by the court for an offense committed on or after January 1, 1994, shall be required as a part of any sentence to probation, COMMITMENT TO THE DEPARTMENT OF HUMAN SERVICES, SENTENCE TO community corrections, ~~or~~ incarceration with the department of corrections, PLACEMENT ON PAROLE, OR PLACEMENT IN OUT-OF-HOME PLACEMENT to undergo treatment to the extent appropriate to such offender based upon the recommendations of the evaluation and identification made pursuant to section 16-11.7-104, or based upon any subsequent recommendations by the department of corrections, the judicial department, the department of human services, or the division of criminal justice ~~of~~ IN the department of public safety, whichever is appropriate. ~~Any such~~ THE treatment and monitoring shall be at a facility or with a person certified or PROVIDED BY AN approved by the board PROVIDER PURSUANT TO SECTION 16-11.7-106 and at such offender's own expense, based upon such offender's ability to THE OFFENDER SHALL pay for such THE treatment TO THE EXTENT THE OFFENDER IS FINANCIALLY ABLE TO DO SO. EACH OFFENDER ENTERING TREATMENT ON OR AFTER JULY 1, 2010, SHALL BE GIVEN A CHOICE BY HIS OR HER SUPERVISING AGENCY OF AT LEAST THREE APPROPRIATE APPROVED PROVIDERS WHERE AVAILABLE, UNLESS THE SUPERVISING AGENCY DOCUMENTS IN WRITING THAT, BASED ON THE NATURE OF THE PROGRAM OFFERED AND THE NEEDS OF THE OFFENDER, FEWER THAN THREE PROVIDERS CAN MEET THE SPECIFIC TREATMENT NEEDS OF THE OFFENDER AND ENSURE THE SAFETY OF THE PUBLIC.

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

(3) EACH SUPERVISING AGENCY SHALL CREATE A PROCESS BY WHICH

AN OFFENDER IN TREATMENT MAY SEEK A REVIEW AND DETERMINATION BY HIS OR HER SUPERVISING AGENCY OF THE APPROPRIATENESS OF HIS OR HER TREATMENT PROVIDER. THE PROCESS, AT A MINIMUM, SHALL INCLUDE THE BASIS UPON WHICH AN OFFENDER MAY REQUEST A REVIEW, THE FREQUENCY WITH WHICH AN OFFENDER MAY REQUEST A REVIEW, AND THE OPTIONS AVAILABLE TO AN OFFENDER IF THE SUPERVISING AGENCY DETERMINES THAT A CHANGE IN TREATMENT PROVIDER IS APPROPRIATE. EACH OFFENDER SHALL BE ADVISED OF THIS PROCESS BY HIS OR HER SUPERVISING OFFICER.

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

16-11.7-106. Sex offender evaluation, treatment, and polygraph services - contracts with providers - placement on provider list - grievances - fund created. (1) THE DEPARTMENT OF CORRECTIONS, THE JUDICIAL DEPARTMENT, THE DIVISION OF CRIMINAL JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THE DEPARTMENT OF HUMAN SERVICES SHALL NOT EMPLOY OR CONTRACT WITH, AND SHALL NOT ALLOW AN ADULT SEX OFFENDER OR A JUVENILE WHO HAS COMMITTED A SEXUAL OFFENSE TO EMPLOY OR CONTRACT WITH, AN INDIVIDUAL OR ENTITY TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE UNLESS THE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, OR POLYGRAPH SERVICES TO BE PROVIDED BY THE INDIVIDUAL OR ENTITY CONFORM WITH THE STANDARDS DEVELOPED PURSUANT TO SECTION 16-11.7-103 (4) (b) (I) AND (4) (i) (I) AND THE NAME OF THE INDIVIDUAL PROVIDING SERVICES IS ON THE LIST CREATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC SERVICES.

(2) (a) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW PROCESS FOR TREATMENT PROVIDERS, EVALUATORS, AND POLYGRAPH EXAMINERS WHO PROVIDE SERVICES PURSUANT TO THIS ARTICLE TO ADULT SEX OFFENDERS AND TO JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES. THE APPLICATION AND REVIEW PROCESS SHALL ALLOW PROVIDERS TO DEMONSTRATE THAT THEY ARE IN COMPLIANCE WITH THE STANDARDS ADOPTED PURSUANT TO THIS ARTICLE. THE APPLICATION AND REVIEW PROCESS SHALL CONSIST OF THE FOLLOWING THREE PARTS:

(I) THE BOARD SHALL DEVELOP SEPARATE APPLICATION AND REVIEW PROCESSES FOR STANDARDS THAT APPLY TO THE CRIMINAL JUSTICE

COMPONENT, SUCH AS CRIMINAL HISTORY RECORD CHECKS, FOR EVALUATORS, INDIVIDUAL TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS. APPLICATIONS FOR THE CRIMINAL JUSTICE COMPONENTS, INCLUDING FINGERPRINTS, SHALL BE SUBMITTED TO THE BOARD. THE BOARD SHALL FORWARD THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR USE IN CONDUCTING A STATE CRIMINAL HISTORY RECORD CHECK AND FOR TRANSMITTAL TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. THE BOARD MAY USE INFORMATION OBTAINED FROM THE STATE AND NATIONAL CRIMINAL HISTORY RECORD CHECKS TO DETERMINE AN APPLICANT'S ELIGIBILITY FOR PLACEMENT ON THE APPROVED PROVIDER LIST. THE BOARD SHALL BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SUBPARAGRAPH (I).

(II) THE BOARD SHALL DEVELOP AN APPLICATION AND REVIEW PROCESS FOR THE VERIFICATION OF THE QUALIFICATIONS AND CREDENTIALS OF EVALUATORS, TREATMENT PROVIDERS, AND POLYGRAPH EXAMINERS. THE DEPARTMENT OF REGULATORY AGENCIES SHALL BE RESPONSIBLE FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS SUBPARAGRAPH (II).

(III) THE BOARD SHALL REQUIRE ANY PERSON WHO APPLIES FOR PLACEMENT, INCLUDING ANY PERSON WHO APPLIES FOR CONTINUED PLACEMENT, ON THE LIST OF PERSONS WHO MAY PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE TO SUBMIT TO A CURRENT BACKGROUND INVESTIGATION THAT GOES BEYOND THE SCOPE OF THE CRIMINAL HISTORY RECORD CHECK DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). IN CONDUCTING THE CURRENT BACKGROUND INVESTIGATION REQUIRED BY THIS SUBPARAGRAPH (III), THE BOARD SHALL OBTAIN REFERENCE AND CRIMINAL HISTORY INFORMATION AND RECOMMENDATIONS THAT MAY BE RELEVANT TO THE APPLICANT'S FITNESS TO PROVIDE SEX-OFFENDER-SPECIFIC EVALUATION, TREATMENT, AND POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

(b) AFTER THE PROCESS DEVELOPED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) IS ESTABLISHED AND PROVIDERS HAVE MET ALL THE CRITERIA OF THE APPLICATION AND REVIEW PROCESS, THE BOARD MAY APPROVE THE PROVIDER. THE BOARD AND THE DEPARTMENT OF REGULATORY AGENCIES SHALL JOINTLY PUBLISH AT LEAST ANNUALLY A LIST OF APPROVED PROVIDERS. THE BOARD SHALL FORWARD THE LIST TO THE

OFFICE OF THE STATE COURT ADMINISTRATOR, THE DEPARTMENT OF PUBLIC SAFETY, THE DEPARTMENT OF HUMAN SERVICES, AND THE DEPARTMENT OF CORRECTIONS. THE BOARD SHALL UPDATE AND FORWARD THE LIST OF APPROVED PROVIDERS AS NECESSARY.

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

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

(5) THE BOARD SHALL DEVELOP A RENEWAL PROCESS FOR THE CONTINUED PLACEMENT OF A PERSON ON THE APPROVED PROVIDER LIST PUBLISHED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

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

THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(7) (a) (I) THE BOARD SHALL REFER TO THE DEPARTMENT OF REGULATORY AGENCIES FOR INVESTIGATION ANY COMPLAINTS OR GRIEVANCES AGAINST INDIVIDUALS WHO PROVIDE SEX-OFFENDER-SPECIFIC TREATMENT OR EVALUATION SERVICES PURSUANT TO THIS ARTICLE.

(II) THE APPROPRIATE BOARD, PURSUANT TO ARTICLE 43 OF TITLE 12, C.R.S., AND REFERRED TO IN THIS SUBSECTION (7) AS THE "DORA BOARD", SHALL REVIEW AND INVESTIGATE ALL COMPLAINTS AND GRIEVANCES RECEIVED BY THE DEPARTMENT OF REGULATORY AGENCIES OR REFERRED BY THE BOARD TO THE DEPARTMENT OF REGULATORY AGENCIES. THE DORA BOARD SHALL PROVIDE THE BOARD WITH THE RESULTS OF THE INVESTIGATION AND ADVISE THE BOARD OF ANY DISCIPLINARY ACTION THE DORA BOARD TAKES AGAINST THE INDIVIDUAL PURSUANT TO ANY PROFESSIONAL LICENSING ACT.

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

(b) THE BOARD MAY TAKE APPROPRIATE DISCIPLINARY ACTION AGAINST AN INDIVIDUAL WHO PROVIDES SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE AS PERMITTED BY LAW, INCLUDING BUT NOT LIMITED TO THE REMOVAL OF THE INDIVIDUAL'S NAME FROM THE LIST OF PERSONS WHO MAY PROVIDE SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE.

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

16-11.7-109. Reporting requirements. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

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

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

(b) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS APPROPRIATE FOR THE BOARD TO REPORT TO THE GENERAL ASSEMBLY ON AN ANNUAL BASIS CONCERNING THE STATUS OF THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES IN COLORADO.

(2) (a) ON OR BEFORE JANUARY 31, 2011, AND ON OR BEFORE JANUARY 31 EACH YEAR THEREAFTER, THE BOARD SHALL PREPARE AND PRESENT TO THE JUDICIARY COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A WRITTEN REPORT CONCERNING BEST PRACTICES FOR THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, INCLUDING ANY EVIDENCE-BASED ANALYSIS OF TREATMENT STANDARDS AND PROGRAMS AS WELL AS INFORMATION CONCERNING ANY NEW FEDERAL LEGISLATION RELATING TO THE TREATMENT AND MANAGEMENT OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES.

(b) THE REPORT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, INFORMATION CONCERNING THE FOLLOWING:

(I) THE EFFECT OF TREATMENT ON ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES;

(II) THE NUMBER OF TREATMENT PROVIDERS IN THE STATE;

(III) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES WHO ARE RECEIVING TREATMENT AND THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES WHO HAVE COMPLETED TREATMENT, WHETHER INCARCERATED, ON PROBATION, OR ON PAROLE;

(IV) THE NUMBER OF ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES WHO HAVE HAD PROBATION OR PAROLE

REVOKED AND THE REASONS FOR THE REVOCATION; AND

(V) THE NUMBER OF COMPLAINTS OR GRIEVANCES RECEIVED BY THE DEPARTMENT OF REGULATORY AGENCIES CONCERNING INDIVIDUALS PROVIDING SEX OFFENDER EVALUATION, TREATMENT, OR POLYGRAPH SERVICES PURSUANT TO THIS ARTICLE, AND GENERALIZED INFORMATION REGARDING THE NATURE OF THE COMPLAINT OR GRIEVANCE AND THE RESOLUTION OF THE GRIEVANCE, INCLUDING ANY DISCIPLINARY ACTION TAKEN BY THE DEPARTMENT OF REGULATORY AGENCIES OR THE BOARD AGAINST THE PROVIDER.

(c) THE REPORT MAY INCLUDE THE BOARD'S RECOMMENDATIONS FOR LEGISLATION TO CARRY OUT THE PURPOSE AND DUTIES OF THE BOARD AND TO PROTECT THE COMMUNITY.

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

16-11-102. Presentence or probation investigation. (1) (b) Each presentence report prepared regarding a sex offender, as defined in section 16-11.7-102 (2), with respect to any offense committed on or after January 1, 1996, shall contain the results of an evaluation and identification conducted pursuant to article 11.7 of this title. In addition, the presentence report shall include, when appropriate as provided in section 18-3-414.5, C.R.S., the results of the risk assessment screening instrument developed pursuant to section 16-11.7-103 (4) ~~(c.5)~~ (d). Notwithstanding the provisions of subsection (4) of this section, a presentence report shall be prepared for each person convicted as a sex offender, and the court may not dispense with the presentence evaluation, risk assessment, and report unless such a report has been completed within the last six months and there has been no material change that would affect the report in the past six months.

SECTION 9. 16-13-902 (5), Colorado Revised Statutes, is amended to read:

16-13-902. Definitions. As used in this part 9, unless the context otherwise requires:

(5) "Sexually violent predator" means a sex offender who is identified as a sexually violent predator pursuant to section 18-3-414.5,

C.R.S., or who is found to be a sexually violent predator or its equivalent in any other state or jurisdiction, including but not limited to a military or federal jurisdiction. FOR PURPOSES OF THIS SUBSECTION (5), "EQUIVALENT", WITH RESPECT TO AN OFFENDER FOUND TO BE A SEXUALLY VIOLENT PREDATOR OR ITS EQUIVALENT, MEANS A SEX OFFENDER CONVICTED IN ANOTHER STATE OR JURISDICTION, INCLUDING BUT NOT LIMITED TO A MILITARY OR FEDERAL JURISDICTION, WHO HAS BEEN ASSESSED OR LABELED AT THE HIGHEST REGISTRATION AND NOTIFICATION LEVEL IN THE JURISDICTION WHERE THE CONVICTION WAS ENTERED AND WHO SATISFIES THE AGE, DATE OF OFFENSE, AND CONVICTION REQUIREMENTS FOR SEXUALLY VIOLENT PREDATOR STATUS PURSUANT TO COLORADO LAW. A SEX OFFENDER CONVICTED IN ANOTHER JURISDICTION WHO IS DESIGNATED AS A SEXUALLY VIOLENT PREDATOR BY THE DEPARTMENT OF PUBLIC SAFETY FOR PURPOSES OF COLORADO LAW SHALL BE NOTIFIED OF HIS OR HER DESIGNATION AND SHALL HAVE THE RIGHT TO APPEAL THE DESIGNATION IN DISTRICT COURT.

SECTION 10. 16-22-103 (5) (a) (IV), Colorado Revised Statutes, is amended to read:

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

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

SECTION 11. 24-33.5-503 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-503. Duties of division. (1) The division has the following duties:

(p.5) TO RECOMMEND TO THE EXECUTIVE DIRECTOR, IN CONSULTATION WITH THE SEX OFFENDER MANAGEMENT BOARD AND THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE, THE PROMULGATION OF RULES CONCERNING TREATMENT STANDARDS FOR ADULT SEX OFFENDERS AND JUVENILES WHO HAVE COMMITTED SEXUAL OFFENSES, LIFETIME SUPERVISION CRITERIA, AND ELIGIBILITY STANDARDS FOR PERSONS WHO PROVIDE SEX OFFENDER EVALUATION, TREATMENT, AND POLYGRAPH SERVICES PURSUANT TO ARTICLE 11.7 OF TITLE 16, C.R.S. IN PROMULGATING THE RULES, THE EXECUTIVE DIRECTOR SHALL TAKE INTO ACCOUNT THE TREATMENT STANDARDS, LIFETIME SUPERVISION CRITERIA, AND ELIGIBILITY STANDARDS FOR PERSONS WHO PROVIDE SEX OFFENDER EVALUATION, TREATMENT AND POLYGRAPH SERVICES RECOMMENDED BY THE SEX OFFENDER MANAGEMENT BOARD PURSUANT TO SECTION 16-11.7-103 (4), C.R.S., AND THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE. THE EXECUTIVE DIRECTOR SHALL PROMULGATE THE RULES IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF THIS TITLE.

SECTION 12. Repeal. 24-34-104 (41) (l), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (41) The following agencies, functions, or both, shall terminate on July 1, 2010:

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

SECTION 13. 24-34-104 (46), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both shall terminate on July 1, 2015:

(n) THE SEX OFFENDER MANAGEMENT BOARD, CREATED IN SECTION 16-11.7-103, C.R.S.

SECTION 14. Appropriation - legislative intent. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for research and reporting functions, for the fiscal year beginning July 1, 2010, the sum of seventeen thousand nine hundred eleven dollars (\$17,911) and 0.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for information technology consultation, for the fiscal year beginning July 1, 2010, the sum of eighty thousand dollars (\$80,000), or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of public safety, for allocation to the division of criminal justice, for legal services, for the fiscal year beginning July 1, 2010, the sum of three thousand fifteen dollars (\$3,015), or so much thereof as may be necessary, for the implementation of this act.

(4) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of three thousand fifteen dollars (\$3,015), or so much thereof as may be necessary, for the provision of legal services to the department of public safety related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of public safety out of the appropriation made in subsection (3) of this section.

(5) It is the intent of the general assembly that the general fund appropriations for the implementation of this act shall be derived from savings generated from the implementation of the provisions of House Bill 10-1338, as enacted during the second regular session of the sixty-seventh general assembly.

SECTION 15. Effective date. (1) This act shall take effect upon

passage.

(2) Notwithstanding the provisions of subsection (1) of this section, sections 7, 11, and 14 of this act shall take effect only if:

(a) The final fiscal estimate for House Bill 10-1338, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for the state fiscal year 2010-11, that is equal to or greater than the amount of the general fund appropriation made for the implementation of this act for the state fiscal year 2010-11, as reflected in section 14 of this act; and

(b) House Bill 10-1338 is enacted at the second regular session of the sixty-seventh general assembly and becomes law; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2010, that the requirement set forth in paragraph (a) of this subsection (2) has been met.

SECTION 16. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO